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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear God, in these challenging days, we remember Abraham Lincoln's words: ''I have been driven many times upon my knees by the overwhelming conviction that I had nowhere else to go. My own wisdom, and that of all about me, seemed insufficient for the day.''

Holy, righteous God, we sense that same longing to be in profound communion with You because we need vision, wisdom, and courage no one else can provide. We long for our prayers to be a consistent commitment to be on Your side rather than an appeal for You to join our partisan causes. Forgive us when we act like we have a corner on the truth and always are right. Then our prayers reach no further than the ceiling. In humility, we spread out our concerns before You and ask for Your inspiration. You have taught us to pray: *Your will be done on earth as it is in heaven*. Amen.

PLEDGE OF ALLEGIANCE

The Honorable HERB KOHL led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 30, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERB KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

SCHEDULE

Mr. REID. Mr. President, this morning the Senate will be in a period for morning business, with Senators permitted to speak for up to 10 minutes each. There will be no rollcall votes today. The next rollcall vote, the majority leader has asked me to announce, will be at approximately 5 p.m. on Monday. We could have a series of three votes on Monday beginning at 5 p.m. Everyone is reminded that there have been three cloture motions filed with respect to H.R. 10. All first-degree amendments must be filed prior to 1 p.m. today.

I stress that because the majority leader has asked me to announce we are going to go out of session at 1:15 p.m., the reason being the remediation that is taking place in the Hart Building today. The Dirksen Building will be closed this afternoon, and we want to make sure we are out of session before the closure of the Dirksen Building begins. Everyone should cooperate. We are not going to make a unanimous consent request to recess at 1:15 p.m. Everyone should understand that it would be tremendously inconvenient for the staff and everyone else if we went past 1:15 p.m. today. Everyone has hours to speak this morning if they wish. They should rearrange their schedule to speak. We would recess earlier, but because of the previous order entered, we want to make sure that is maintained and people can file their amendments prior to 1 p.m. At 1:15 p.m., we are going to have to recess the Senate.

MEASURES PLACED ON CALENDAR—H.R. 2722 and H.R. 3189

Mr. REID. Mr. President, I understand there are some bills at the desk that have been read the first time. They are H.R. 2722 and H.R. 3189.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. REID. Mr. President, I ask unanimous consent that it be in order en bloc for these two bills to receive a second reading, and I would then object to any further consideration of this legislation at this time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will read the title of the bills for the second time.

The legislative clerk read as follows:

A bill (H.R. 2722) to implement effective measures to stop trade in conflict diamonds, and for other purposes.

A bill (H.R. 3189) to extend the Export Administration Act until April 20, 2002.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bills will be placed on the calendar.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The Chair recognizes the Senator from Rhode Island.

Mr. REED. Mr. President, I anticipate speaking a bit longer than 10 minutes. I ask unanimous consent to speak for so much time as I may consume.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

GUN SHOW BACKGROUND CHECK ACT OF 2001, S. 767

Mr. REED. Mr. President, I rise today to inform Senators of my intention to bring before the Senate at the earliest possible time an important piece of legislation that I introduced last April along with 21 of my colleagues.

Our bipartisan bill, S. 767, the Gun Show Background Check Act of 2001, would apply the Brady law to all firearms sales at gun shows, thereby closing the loophole that allows criminals to buy firearms from private sellers at gun shows without a background check. This legislation is identical to the Lautenberg amendment passed by the Senate on a bipartisan vote in the 106th Congress.

As long as gun violence continues to take the lives of 10 of our young people every day, and about 30,000 Americans every year, we must do everything we can to prevent convicted felons, domestic abusers, and other prohibited purchasers from gaining access to firearms.

It has been my intention to bring this legislation to a vote since its introduction last spring. We were asked not to offer the bill as an amendment to the education bill because it was one of the President's top priorities. We were asked not to offer it to the bipartisan campaign finance reform bill because it was non-germane. We were asked not to offer it to the bipartisan Patients' Bill of Rights because it was a fragile compromise. We were asked not to offer it to the Defense authorization bill because of the critical importance of moving that legislation. Finally, we are barred by Senate rules from offering the amendment to the fiscal year 2002 appropriations bills moving through the Senate.

By not enacting this legislation, we have, unfortunately, overlooked one of the most effective tools we can give to law enforcement to prevent violent acts against our people, and that is the ability to conduct background checks every time a gun is sold at more than 4,000 gun shows held in this country each and every year. The time has come for the Senate to consider this legislation. It was important before September 11, and it is even more important today.

Here are the facts: The Bureau of Alcohol, Tobacco and Firearms reported to Congress last year that gun shows are a major gun trafficking channel, responsible for more than 26,000 illegal firearms sales during a single 18-month period. Gun shows are the second leading source of illegal guns recovered in gun trafficking investigations. The FBI and ATF tell us again and again that convicted felons, fugitives from justice, and other prohibited purchasers are taking advantage of the gun show loophole to acquire firearms.

Now, more and more evidence is emerging that terrorists also know the weaknesses in our gun laws. The Chicago Tribune reported on November 18 that among the ruins of radical Islamic safehouses in Kabul were computer printouts of Jihad training manuals that emphasized how easy it is to obtain firearms, and firearms training, in the United States.

Under the heading ''How Can I Train Myself for Jihad,'' the manual says, ''in other countries, for example, some states of the United States or South Africa, it is perfectly legal for members of the public to own certain types of firearms. If you live in such a country, obtain an assault rifle legally, preferably AK–47 or variations, learn how to use it properly and go and practice in the areas allowed for such training.'' The manual goes on to advise those training for holy war to join American gun clubs to sharpen their shooting skills, saying,

There are many firearms courses available to the public in the USA, ranging from 1 day to 2 weeks or more. These courses are good but expensive. Some of them are only meant for security personnel but generally they will teach anyone. It is also better to attend these courses in pairs or by yourself, no more. Do not make public announcements when going on such a course. Find one, book your place, go there, learn, come back home and keep it yourself. . . . Useful courses to learn are sniping, general shooting and other rifle courses. Handgun courses are useful but only after you have mastered rifles.

We also have new evidence of suspected terrorists using gun shows to obtain weapons. On September 10, a jury in Detroit convicted Ali Boumelhem, a member of the terrorist group Hezbollah, on charges of conspiring to smuggle guns and ammunition to Lebanon. Mixed in with auto parts in a container bound for Lebanon, law enforcement authorities found a variety of weapons and accessories purchased at gun shows, including two shotguns, 750 rounds of ammunition, flash suppressors for AK–47s, and upper receiver for an AR–15 (the civilian version of the M–16), and speed loaders for 5.56mm ammunition.

Ali Boumelhem and his brother, Mohamad, knew the law well, and they exploited it over the years. Because Ali is a convicted felon and therefore prohibited from purchasing firearms under the Brady law, the confiscated weapons were purchased from licensed dealers at gun shows by Mohamad, who is not a felon. Mohamad was later acquitted of charges related to this illegal ''straw purchase.'' According to the court record, he also threatened a confidential informant during the investigation, saying ''If we cannot get you here we will take care of you in Lebanon.''

The investigation also revealed that prior to November 1998, when the National Instant Criminal Background Check System was implemented under the Brady law, Ali Boumelhem did purchase several shotguns from licensed dealers at gun shows by lying on the required form about his felony conviction. He knew that prior to the establishment of the NICS, background checks were not required on long guns in many States. We may never know what became of those guns, and, more importantly in terms of the legislation I am discussing today, we will never know whether Boumelhem or his brother purchased guns from private sellers at these gun shows because there is no record of sale or background check required for sales by unlicensed sellers at gun shows, then and now. What we do know is that this Hezbollah member found a large selection of weapons there and worked the system to his benefit over time before finally getting caught. We need to close the gun show loophole so that we prevent illegal weapons purchases by terrorists.

In another case, the New York Times reported on November 13 that Conor Claxton, a man accused of being a member of the Irish Republican Army, testified in Federal court in Fort Lauderdale that he and his associates had gone to south Florida gun shows to buy thousands of dollars worth of handguns, rifles, and high-powered ammunition to smuggle to Northern Ireland.

The Times also reported that on October 30 in Texas, Muhammad Navid Asrar, a Pakistani man, pleaded guilty

to immigration violations and illegal possession of ammunition. Authorities said that in the last 7 years Mr. Asrar had bought several weapons at gun shows, including handguns and rifles. According to police in Alice, Texas, a Federal grand jury is investigating whether he may be linked to al Qaeda terrorists. The Times reported that he aroused the authorities' suspicion when he asked employees at his convenience store to take pictures of tall buildings and mail letters for him from Pennsylvania back to Texas.

I wrote to Attorney General John Ashcroft earlier this month to ask what steps the Department of Justice is taking to prevent terrorist attacks involving firearms, including firearms acquired at gun shows. I look forward to his reply. I also met with officials of the Department of Justice and ATF to discuss the role of firearms in their counterterrorism efforts. Let me say that although the Attorney General and I may not agree on many issues when it comes to the regulation of firearms, I believe we have a unique opportunity to work together to prevent violent acts by terrorists and others, without infringing upon the constitutional rights of law-abiding Americans. Not one single, solitary person who is not already prohibited from possessing firearms would be denied the right to purchase firearms by our gun show bill.

I know there are those who oppose any new gun laws. They have a right to that opinion, but what is their proposed alternative? Should we ignore the Jihad manuals and the cases of Ali Boumelhem, Conor Claxton, and Mohammad Asrar? Do any of us really know what the next terrorist attack will look like? I believe we have a clear responsibility to do everything we can to prevent terrorists from gaining access to firearms.

But even if we set aside the issue of terrorists' access to guns, this legislation is important to bring some sense to our gun laws and save American lives. The chilling reports this week of an alleged plot by students at New Bedford High School to kill large numbers of their fellow students and teachers reminded us that the threat of gun violence is still very real for our children and families.

Two years ago, after Eric Harris and Dylan Klebold killed 13 people and themselves at Columbine High School with weapons purchased from a private seller at a gun show, Democrats and Republican in the Senate joined together to pass the Lautenberg amendment to close the gun show loophole. The legislation I have introduced is identical to that Senate-passed amendment. Unlike other gun show bills, it would apply the successful Brady law to every gun sold at gun shows, without exception. As under current law, law enforcement would have up to three business days to conduct background checks on firearms sales. Our opponents will say that we're trying to shut down gun shows by imposing a ''waiting period'' on gun sales that usually take place on weekends. But that is not the case. There is no ''waiting period.'' The Brady law gives law enforcement up to 3 business days to complete a background check on a prospective gun buyer. In fact, most gun purchases are processed very quickly by the NICS system. The FBI clears 72 percent of gun buyers within 30 seconds. Another 23 percent are cleared within 2 hours. That means background checks are completed within 2 hours for 95 percent of prospective gun buyers. Nineteen out of twenty have a decision rendered in just 2 hours.

But what about that last 5 percent that takes longer than 2 hours? According to a recent GAO report, those gun buyers are more than 20 times more likely to be prohibited from possessing a weapon under Federal law.

For gun buyers in that last 5 percent, potentially disqualifying information often requires the FBI to access court records—which are typically not available on a weekend; indeed, typically not available until at least Monday morning—to ensure that the person is not a convict felon or fugitive from justice; those records have to be checked.

Yet other gun show bills would make exceptions to the Brady law, reducing background checks for many gun show sales to 24 hours, to avoid inconveniencing the people in that 5-percent category. I believe that would be a serious mistake. We must reject the notion that it is better to allow a criminal to get gun than to ask a small group of potentially high-risk gun buyers to experience a minor inconvenience. If anything, law enforcement needs more time, not less, to conduct background checks. The FBI reported last year that over an 18-month period, more than 6,000 firearms were sold to convicted felons and other prohibited buyers because the three business days allowed under the Brady law expired before law enforcement could provide a definitive response. These illegal firearms must then be retrieved by State and Federal officer, as dangerous scenario which no one wants to see repeated or multiplied. We are not proposing to lengthen the time for background checks, but clearly it would be a mistake to shorten it even further. Instead, we should do the right thing for both law enforcement and gun buyers and simply apply current law to all gun show sales. No law-abiding citizen will be denied the right to purchase a firearm under my legislation. As under current law, if the 3 business days expire before law enforcement identifies a violation that would prohibit the gun sale, the sale can go forward.

We are not trying to end gun shows, and we are not trying to deny any law-abiding American the right to purchase a gun. What we are trying to end is the free pass we're now giving to convicted felons when they can walk into a guns how, find a private dealer, buy whatever weapons they want, and walk out without a background check.

In overwhelming numbers, the American people believe that background checks should be required for all gun show sales. The people of Colorado and Oregon confirmed this last fall when they approved ballot initiatives to close the guns show loophole. I want my colleagues to know that I will take every opportunity early next year to bring the Gun Show Background Check Act before the Senate for a vote. I urge my colleagues to support this legislation so that we can finally close the gun show loophole and make sure that convicted felons, domestic abusers, terrorists, and other prohibited persons do not use gun shows to purchase firearms without a Brady background check.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. AKAKA). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Alaska is recognized.

OPEN THE HART BUILDING

Mr. MURKOWSKI. Mr. President, I rise this morning on behalf of the residents of the Hart Building who have been dispossessed as a consequence of the anthrax incident. I am going to refer to a memorandum of November 27 to all Senators relating to the cleanup of the Senate buildings. The statement goes into some detail relative to procedure. It is from the Senate Sergeant at Arms and it outlines the activity that the various agencies—the Centers for Disease Control, Environmental Protection Agency, Federal Emergency Management Agency, National Institute of Occupational Safety and Health, and the FBI—are involved in in this process. It indicates the Environmental Protection Agency is the lead agency on the remediation—the cleanup—of the building.

It further states that in addition to the extensive environmental sampling, the team has—

. . . finished remediation of common areas in the Hart Building, including the atrium, walkways and the elevator in the Southwest quadrant.

That is the good news.

Post-remediation sampling results for those common areas are expected later this week.

That would have already passed.

Remediation of areas in the Hart Building which tested positive for trace amounts of anthrax is underway. EPA is in the process of detailing planning for the remediation of affected offices, including those of Senators Feingold, Baucus, Boxer, Corzine, Craig, Feinstein, Graham, Lieberman, Lugar, Mikulski and Specter. EPA, the Sergeant at Arms, and the Secretary of the Senate staff will be discussing these plans with senior staff for the affected offices this week.

My understanding is those offices are in one core and Senator DASCHLE's office is the office where most of the spores were found.

They indicate that:

Senator Daschle's suite is being prepared for the application of chlorine dioxide gas.

I gather that may be going on sometime this weekend. But:

According to the EPA's plan, the cleanup of the Daschle suite would take place this weekend. The Dirksen Building and the Hart-Dirksen garage will be closed . . . .

That is evidently underway today.

I also note in here that:

Following the discovery of an anthrax letter addressed to Senator Leahy, environmental sampling of mail handling areas in both the Russell and Dirksen Senate Office Buildings was conducted on November 17th and 18th. The results of those tests were negative except for trace positive results in the mail handling areas of the offices of Senators Dodd and Kennedy. Those areas were cleaned up on November 24th and November 25th . . . .

So clearly they have satisfied themselves as to the adequacy of the cleanup of at least two offices, those of Senator DODD and Senator KENNEDY. They have indicated they will reopen for business November 26, which is the case.

The Dirksen mailroom has been remediated, but is not yet open for business . . . . Sampling of the off-site mail facility is . . . complete—

And so forth.

There is Medical information.

Mail: It suggested mail deliveries will start this week and we will have 5 to 6 weeks of back mail.

The interesting thing is it doesn't say a thing about when we are likely to get back in the Hart Building. It is my understanding the stacks within the Hart Building are separated and the area of greatest concern is still Senator DASCHLE's office. In discussing this with some people involved at a level that clearly they have access, a suggestion has been made that, since Senator DASCHLE's office is the area of concern now, they simply seal that off.

Then the conversation went into, how do you seal it off if you have the air ducts and air vents? Those can be blocked as well.

It is very inconvenient for those of us who are in the far stack, furthest away from the area of the incident. We have been advised that our offices are clean, but we can't go in. Yet they say the common areas now are clean.

In a meeting with EPA, I asked them if this was really something under consideration for a Superfund site. They looked at me rather startled, as if they hadn't thought about that, but it may be.

We have to have someone speak with authority. Frankly, the leadership here is not as inconvenienced as those of us who are not in the leadership because they have offices here in the Capitol. But speaking for those of us who have been dispossessed for 5, going on 6 weeks, and every indication is another week or another 2 weeks, we do not seem to be able to get a conclusive decision on when we can get in, when they are going to be satisfied it is through—and somebody is going to have to sign off on this.

It seems to me they could simply seal off the office now that is demanding their attention, seal off that air-conditioning or cut that off mechanically—you can do it—and let us get into our offices so we can function. It is extraordinarily inconvenient. You can imagine walking out of your office and just having to leave everything there.

But the worst part of it is we had been in that building 3 full days, operating, after the envelope was opened in Senator DASCHLE's office.

So I urge those responsible to get together and, for Heavens' sakes, find a way to get us back into the rest of the building. If you have to seal Senator TOM DASCHLE's office, then go ahead and do it and get it completed.

I yield the floor to my good friend from Kansas. He and I are going to be with you for a while.

The PRESIDING OFFICER. Senator BROWNBACK from Kansas is recognized.

DAY OF RECONCILIATION

Mr. BROWNBACK. Mr. President, I appreciate the time to be able to address the body on a key issue we will be taking up for a vote on Monday. Before I do that, I would like to make an announcement of an activity in which the Presiding Officer and I have been directly involved. On December 4, Tuesday this next week, from 5 p.m. to 7 p.m., it is going to be a day of reconciliation, a time period in the Rotunda for Members of both the House and Senate sides. This is going to be a time for the leaders of the country to get together and pray for the Nation. It is going to be December 4, 5 p.m. to 7 p.m., just the leaders of the House, Senate, and administration. It will not be open to the public. I do hope Members can attend and be a part of that process and that ceremony. It is something the country used to do frequently and hasn't for a number of years. That will be December 4, 5 to 7 p.m., in the Rotunda.

ISSUES IN THE LOTT AMENDMENT

Mr. BROWNBACK. Mr. President, I would like to take a few minutes to speak in morning business on the issue of human cloning. On Monday, there will be a vote on the issue of the Lott amendment that contains the energy package that has been put forward by Senator MURKOWSKI, and the moratorium on human cloning, the 6-month moratorium on human cloning that I put forward. Several colleagues have sponsored both of these amendments. It has been put together. There will be a cloture vote on this on Monday.

I am asking our colleagues to support us being able to get this issue before the body for a final vote, to vote for cloture on the Lott amendment so we can get this issue in front of the body and get it decided.

These are two critical issues. The issue of energy and our dependence on foreign oil sources is becoming more and more obvious to people around the country and around the world. We are just too dependent on other places, places that are not reliable suppliers to the United States.

Oil from Iraq, as Senator MURKOWSKI has talked about frequently, is certainly not a reliable supply to the United States. Yet we are dependent on it. There are growing questions about Saudi Arabia, about the reliability of Saudi Arabia and the oil resources from there. Clearly, we should be having an energy policy and an energy strategy to remove ourselves from some of the dependency, particularly in the Persian Gulf region, for our oil and natural gas supplies. We need to do this energy policy, and do it now.

HUMAN CLONING

Mr. BROWNBACK. Mr. President, I wish to particularly address the issue of human cloning and the part of the bill that puts forth a 6-month moratorium on human cloning. I brought up before this body several times this week a U.S. News & World Report cover story of this week about the first human clone. Advanced Cell Technology out of Massachusetts is now saying they have cloned the first human being.

We have to address this issue now or we are going to have to expect more stories such as this about the further development of human cloning before this body has spoken. The House has spoken and said they don't want to have human clones. They put forth a complete ban, and passed it by a large bipartisan majority, a 100-vote margin. The President said: Let's ban human cloning. We don't want to create humans for destructive purposes or for reproductive purposes in this fashion. He has asked for banning that. This body has failed to act.

That is why we are putting forward at this time this request for a 6-month moratorium: Time out; hold up, so we don't have moratoriums such as this while this body takes time to deliberate, hold the committee hearings, and do the things it needs to do to consider this issue. We are asking for a timeout moratorium for 6 months.

I want to make several points and cite various groups that are supporting the moratorium or even the entire banning of human cloning. I want to read some important articles which they have put forward. I will make several points over the following days, weeks, and months.

One point is that research cloning being sponsored by Advanced Cell Technology requires eggs to be harvested from a woman. Harvesting eggs is an invasive and dangerous procedure. Harvesting eggs from women means the use of super-ovulatory drugs, the

use of which has been linked to higher risks of ovarian cancer. The risk is one, a woman can take for a variety of reasons; one of them being to help have children. However, women are being asked to incur this risk to ''donate'' their eggs solely for money. Women who sell their eggs to firms like Advanced Cell Technology will likely disproportionately be of women who are already somewhat disenfranchised, or of lower income. In fact, it is now known that Advanced Cell Technology paid $4,000 to each woman who ''donated'' her eggs.

I would say that is probably more than a donation if you pay $4,000 for the egg. I suggest if this doesn't qualify as exploitation of the disenfranchised for profiteering motives, I am not sure what does.

This is not just a pro-life or pro-choice debate. It is not that at all.

In fact, pro-choice feminist Judy Norsigian and biologist Stuart Newman recently commented in a Boston Globe column,

Because embryo cloning will compromise women's health, turn their eggs and wombs into commodities, compromise their reproductive autonomy and, with virtual certainty, lead to the production of ''experimental'' human beings, we are convinced that the line must be drawn here.

That is strong language. Experimental human beings, eggs and wombs turned into commodities, and compromising women's health.

Perhaps that is why this debate is not a debate, as someone suggested, on the issue of abortion. And perhaps that is why we have an interesting coalition forming of groups that are strongly opposed to abortion, groups that strongly support abortion, environmentalists, and others. The reason for the broad range of interest is that there is truly something about this issue which should concern all of us.

I would like to read a few of the articles appearing in recent months for the benefit of some of my colleagues. The first article is by Sophia Kolehmainen of the Council for Responsible Genetics, a pro-choice group chaired by Claire Nader. Claire is the sister of Ralph Nader, the Presidential candidate. She was actively involved in the Presidential campaign. This is what their group had to say about human cloning. This is the article they put forward. It is entitled ''Human Cloning: Brave New Mistake.''

It would be a mistake to develop and use cloning as a technique to replicate human beings. It is questionable whether and what benefits would be gained from the successful creation of a cloned human being, and whether they would justify the radical impact cloning would have on our society. Cloning is not just another reproductive technology that should be made available to those who choose to use it, but is an unnecessary and dangerous departure from evolutionary processes and social practices that have developed over millions of years. As with many other developments in biotechnology, some scientists and commentators are asking us to accept cloning of humans just because it is technically possible, but there are few good reasons to develop the technology, and many reasons not to develop it.

1. SAFETY CONCERNS

The most frequently stated argument against cloning is based on safety concerns. At this point in the process of experimenting with cloning, such concerns are important. The production of Dolly required at least 276 failed attempts. No one knows why most of these attempts failed and only one succeeded. From a technical viewpoint, cloning presents different obstacles in every species, since embryo implantation, development, and gestation differ among different species. Human cloning therefore could not become a reality without extensive human experimentation. Though 276 ''failed'' lambs may be acceptable losses, the ethical implications of any failed or only partially successful human experiments are unacceptable.

Some of their article I don't necessarily agree with, but I am reading through their arguments.

2. COMMODIFICATION

Cloning would encourage the commodification of humans. Though industrialized societies commodify human labor and human lives, the biological commodification involved in human cloning would be of a vastly different order. Cloning would turn procreation into a manufacturing process, where human characteristics become added options and children become objects of deliberate design. Such a process of commodification needs to be actively opposed. It produces no benefits and undermines the very basis of our established notions of human individuality and dignity.

3. DIVERSITY

Cloning would also disrespect human diversity in ethnicity and ability. Though it is, in fact, not possible to produce exact copies of animals or people, inherent in cloning is the desire to do so. The process of cloning would necessarily contribute to genetic uniformity by decreasing genetic variety. A society that supported cloning as an acceptable procreative technique would imply that human diversity is not important. Especially in a multicultural nation like the United States, where diversity and difference are at the root of our cultural existence, any procedure that would reduce our acceptance of differences would be dangerous. It is clear from the tensions that exist in our society that we should encourage processes that increase our appreciation for diversity among individuals, not working to remove differences.

Dr. Brent Blackwelder, president of Friends of the Earth, put forward a strong statement in opposition to human cloning. This is a pro-choice group which put forward a strong statement in opposition to cloning for many of the same reasons that I have put forward.

There are other groups that are putting forward clear and convincing reasons why we should not do cloning. For those reasons and many others, I ask this body to take up the bill numbered 2505 on Monday, and vote for cloture on the moratorium prohibiting human cloning for 6 months. There is ample reason for us to have a moratorium for 6 months.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia, Mr. CLELAND, is recognized.

THE RAILROAD RETIREMENT REFORM BILL, ENERGY LEGISLATION, AND ANWR

Mr. CLELAND. Mr. President, I rise today to address three issues on which we will be voting in the Senate on Monday: The railroad retirement reform bill, the comprehensive energy legislation, and the Arctic National Wildlife Refuge legislation.

First of all, I would like to express my support for the railroad retirement reform bill. As thousands of Georgians who have contacted my office in support of this legislation will state, action by the Senate on this legislation is long overdue. I was pleased to support the cloture vote that occurred yesterday to move to this legislation.

The House of Representatives passed this legislation more than once by overwhelming, bipartisan majorities, and the Senate version has 74 cosponsors, including my sponsorship. I think this bill should receive the same opportunity for a vote. Not only would current and former employees benefit from this legislation but also the widows and widowers of former employees.

This legislation is the result of a long effort by both industry and labor to reform the railroad retirement system. Not often does Congress have the opportunity to vote on a cooperative effort supported by virtually everybody affected in the industry. We have that opportunity now. We should take advantage of it. We would be remiss to ignore it and not support it.

We have heard from the small numbers of Senators who threaten this bill's ability to make it to the President's desk. These same colleagues joined me in support of a tax break package earlier this year which cost more than $1 trillion. At that time, we supported the tax legislation because of the potential economic stimulus it could provide. I say reforming the railroad retirement system will also provide such stimulus by freeing up funds that could be reinvested in the economy by the over 1 million active and retired rail workers and their families and the rail companies.

This country exploded as the railroads moved west. It was the physical incarnation of manifest destiny. Since the time these initial courageous workers linked this country, hundreds of thousands of workers have followed in their footsteps to maintain and expand their work. These workers and their families would benefit from this legislation.

I urge my colleagues to join me in support of this legislation and provide long overdue reform to the railroad retirement system.

However, this railroad retirement bill is not the appropriate vehicle to address comprehensive energy legislation. It is essential that we pass a comprehensive energy bill that, No. 1, provides consumers with affordable and reliable energy; No. 2, increases domestic energy supplies in a responsible manner; No. 3, invests in energy efficiency

and renewable energy sources; and, No. 4, protects the environment and public health.

The inclusion of renewable energy sources is vital because I believe energy sources, such as wind, geothermal, solar, hydropower, and biomass, along with energy-efficient technologies, will help offset fuel imports, create numerous employment opportunities, and actually enhance export markets.

Finally, I would like to address my particular concerns about opening up the Arctic National Wildlife Refuge to oil drilling.

Earlier this year, my colleagues who supported ANWR drilling argued that U.S. gas prices were out of control and therefore ANWR needed to be drilled immediately. Since then, gas prices have fallen dramatically, despite the war in Afghanistan. In fact, over the Thanksgiving holiday, I returned to Georgia and I routinely saw gas prices in Georgia substantially below $1 a gallon. As a matter of fact, I did see some prices at 76 cents a gallon. Those prices have not been seen at the pumps in more than a year.

Since September 11, the price per barrel of oil has dropped $12 to the current price of $18 per barrel. ANWR does not need to be drilled but rather protected so generations from now can see its beauty as we see it today.

I will support efforts to protect ANWR from drilling, and I urge my colleagues to do the same.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut, Mr. LIEBERMAN, is recognized.

DRILLING IN ANWR

Mr. LIEBERMAN. Mr. President, I come to this Chamber—and I am pleased to do so after the excellent statement by my friend and colleague from Georgia—to speak about the addition of the House energy bill to the railroad retirement bill before us. This amendment is the wrong amendment offered at the wrong time.

The House energy bill, with all due respect, is, in my opinion, an unwise proposal that was written really for a different time, as Senator CLELAND's remarks not only suggest but illustrate quite specifically. The bill proposes to open the Arctic Refuge for drilling, which is bad environmental policy and bad energy policy.

We will soon have the opportunity to give our Nation's long-term energy strategy the thoughtful consideration that it deserves and that the American people deserve. I look forward to the introduction by the majority leader, soon, of his balanced, comprehensive energy bill, and I look forward to debating it when we return after the first of the year.

We should not be attempting to pass such significant legislation dealing with so fundamental and complicated a problem as America's energy needs and systems in such a summary fashion as an amendment to a bill of this kind. We should, and I am confident will, give it the thorough, thoughtful, balanced debate after the first of the year.

We owe it to the American people to determine whether the measure before us is a responsible and responsive solution to our energy needs or simply a distraction. To determine that, we do not need to hold up pictures of baby caribou or mother polar bears, although I find those pictures not only attractive but moving. We only need to ask a very businesslike question: What do we gain and what do we lose from drilling for oil in ANWR?

I think, when we work that question back dispassionately to an answer, we see the error of the proposal to drill in the Arctic Refuge that is before the Senate today and will be voted on on Monday, procedurally at least.

I can tell you what we gain in probably less than a minute. It would take days to catalog what we lose. I am prepared, if necessary, if the occasion arises, to take days to talk about and catalog what we will lose as a nation if we drill in the Arctic Refuge.

So let me start with what I believe, in fairness, we would gain.

Even if oil companies started drilling tomorrow in the refuge—which, of course, is never going to happen that quickly—even if we mistakenly adopted this legislation, it would take at least 10 years for any crude to be delivered to refineries. The U.S. Geological Survey estimates there is, at best, a 6-month supply of economically recoverable oil—a yield that would be spread over 50 years.

What are the costs?

The visible damage, of course, would be substantial: An environmental treasure permanently lost, hundreds of species threatened, international agreements jeopardized, oil spills further endangering the Alaskan landscape, and an increase in air pollution and greenhouse gas emissions, among other costs.

The unseen damage of drilling would be just as real: A nation lulled into believing it has taken a step toward energy independence—arguably, by its supporters, a large step—when, in fact, it has done no such thing; a nation believing it is extracting oil in an environmentally sensitive way, when, in fact, no methods have been discovered that can avoid damage to this beautiful, untouched wilderness area of America; all in all, the American people misled on a host of critical issues. Finally, this plan would threaten something even more precious than what I have mentioned; that is, some of our most treasured American values, including the fundamental American value of conserving, conservation, conserving what the Good Lord has given us in natural treasures in the 50 American States.

The first claim that my colleagues make is that drilling in the Arctic is a necessary part of a balanced, long-term energy strategy. But, respectfully, calling this part of a strategic energy plan is as if to call crude oil a beverage; it is literally and figuratively hard to swallow. This ill-considered plan will do nothing to wean us from our dependence on foreign oil.

Drilling in the Alaskan national wildlife refuge is, in fact, a pipeline dream, a decision that will produce just a slight uptick in our oil production 10 years down the road and at considerable cost to our environment, our values, and our policies. It will create far fewer jobs than dozens of smarter alternatives which depend on American technology and American innovation and American industry.

The much quoted study indicating that Arctic drilling would result in 750,000 jobs has since been widely discredited. Even its authors have acknowledged that its methodology was flawed. Now the agreed-upon job creation figure is much closer to 43,000, and all of those jobs are short term, as opposed to the permanent jobs that would be created through the development of other alternative, innovative forms of energy, including conservation.

This plan also does not move us one step closer to the very valuable, critical goal of energy independence. First, it will take at least a decade to bring to market any oil that might be discovered in the refuge, making it useless in the context of the current international crisis. Incidentally, there is a conservative estimate from the Department of the Interior during the administration of former President Bush that has since been reiterated by many people, including oil industry executives, and that is the 10-year lead-in time.

Secondly, we should realize that Alaskan crude oil is not shipped east of the Rocky Mountains, meaning that none of this oil is refined into home heating oil that is used in the entire Northeast and other parts of Middle America. Further, oil supplies are not needed for the production of electricity. Nationwide, only 2 percent of electricity is generated by oil.

Finally, let's realize that increasing our dependence on oil as a source of energy is no way to wean ourselves off foreign oil in the long run. The statistics repeated frequently make it clear that we cannot drill our way into energy independence. The United States uses about 25 percent of the world's oil but possesses only 2 percent of its reserves. So the way to energy independence is clearly through conservation, through using less than 25 percent of the world's oil and for the development of new technologies that will provide genuine energy independence.

The most important step, of course, we can take is reducing oil use in the transportation sector, which is responsible for over two-thirds of the oil consumed in the United States, and it is climbing. We can do that with technological methods that are in reach. Many of them are in our grasp already in our vehicles.

Arctic Refuge oil is simply not the most secure source of energy for the Nation. Of course, I am not suggesting that those who support drilling in the refuge are in any way neglecting our Nation's energy security. None of my colleagues would say that of those of us who oppose drilling in the Arctic Refuge. We all agree that we want to achieve energy independence and greater energy security. Our difference is about the methods and means for doing so.

At the same time, we have to realize the irony of the present situation. Just as we enter an age of heightened awareness regarding potential security risks at our nuclear plants and our other energy production centers, many Members of Congress are set on pursuing an alternative that, on top of its other liabilities, happens to be less secure than many other options. They are more difficult to secure than many other options. The fact is that the 25-year-old Trans-Alaskan Pipeline itself is vulnerable to disruption. More than half of it is elevated and indefensible. It has already been bombed twice years ago and shot at more recently. And the pipeline today is beset with accelerated corrosion, erosion, and stress.

There is, of course, one other critical reason we oppose this plan, and that is the damage it will do to the Arctic Refuge itself. We should not countenance such a blatant broadside on one of the jewels of America's environment. This threat, to me, is made even more frustrating by the claim that supporters of drilling have made that the refuge can be opened up to oil exploration in an environmentally sensitive manner. The Coastal Plain of the Arctic Refuge is known as the American Serengeti. It is inhabited by 135 species of birds, 45 species of land mammals. The plain crosses all five different echo-regions of the Arctic.

It is a very beautiful picture—until you add oil exploration. I urge my colleagues to look very carefully at the suggestion that the result of oil drilling in the refuge would just be a small blemish on the grand landscape of the refuge—a little worm hole on a nice red apple. First, there will be a series of blemishes—dozens of holes that will be connected together by roads, pipelines, and other infrastructure; spidering out from these blemishes would be an elaborate additional infrastructure of roads, pipelines, air strips, and processing plants.

The web would almost certainly include permanent facilities, such as roads, airstrips, docks, staging areas, central processing facilities, gathering centers, compressor plants, seawater injection plants, gas processing plants, power stations, guard stations, housing and maintenance facilities, utility lines, garbage disposal sites, gravel pits, and more. In the end, it would make a terrible change in this refuge.

Mr. President, the House bill, as you know, limited development in the refuge to 2,000 acres. But it is critically important for my colleagues to understand that that figure expressly excludes roads and pipelines and fails to define the acreage as contiguous. So the illusion of minimal impact is just that; it is an imaginary landscape painted in oil.

Quite simply, we are forced to make a choice between this magnificent piece of America and its preservation for all the generations that will follow us as Americans and the development of this refuge for oil. I have made mine, and I believe the American people support it. Why? Because conserving our great open spaces is fundamentally an affirmation of our core values.

Conservation is not a Democratic or Republican value; it is a quintessential American value. The ethic of conservation tells us that it is not only sentimentally difficult to part with beautiful wilderness, it is practically unwise because in doing so we deny future generations a precious piece of our common culture.

Let's remember, in the aftermath of September 11, that most Americans have been stepping back and asking themselves what is important, what do we value. I believe that millions of our fellow Americans have, among other things, come to the conclusion, alongside family and faith, that they value America's great natural resources.

Let me recall, finally, the words of the great President Teddy Roosevelt, who, back in 1916, seemed to understand this issue very clearly. He wrote:

> The ''greatest good for the greatest number'' applies to the number within womb of time, compared to which those now alive form but an insignificant fraction. Our duty to the whole, including the unborn generations, bids us to restrain an unprincipled present-day minority from wasting the heritage of these unborn generations. The movement for the conservation of wildlife and the larger movement for the conservation of all our natural resources are essentially democratic in spirit, purpose, and method.

I could not say it more eloquently or more directly than the great TR.

I thank my colleagues. I hope they will vote this amendment down and we will return to a full and wholesome debate of our energy policies after the first of the year.

I thank the President and yield the floor.

Mr. MURKOWSKI. Mr. President, I wonder if I could enter into a colloquy with my friend from Connecticut.

The Senator from Alaska would inquire whether the Senator from Connecticut has ever been invited up to the area by the Native people of Alaska and the residents of Kaktovik who are in a position where they have 95,000 acres of their own land. They have the village of Kaktovik, and they don't even have the authority to drill for natural gas to heat their homes.

I noted in the presentation from the Senator there was no reference to the interest of the people who live in the area. And for his edification, we have pictures of those communities and those children and the hopes and aspirations of those individual Alaskans who are looking for a better way of life, looking for alternative jobs, better health standards, and better education, and it seems to me that we ought to have some concern for their livelihood.

They support opening this area. Yet all the emphasis seems to be on the environmental issues associated with ANWR. It appears in almost every presentation we have heard on the other side of this issue that the needs of the people are overlooked.

This is a picture of the town hall in Kaktovik. We have children on a snow machine and a bicycle. The point of these pictures is that there are real people living there. There is very little consideration given to their wishes or views.

These are the kids going to school. You notice that they are Eskimo children. They, too, have hopes and aspirations.

Now, if I can show you the next chart, perhaps my friend who has never been there can understand this area over here. This undeformed and deformed area consists of 1.5 million acres of ANWR. Now I know the Senator knows there are 19 million acres in ANWR. So this is the only area at risk. But as you see over here, this is the 95,000 acres that are owned by the Natives of Kaktovik, but they are precluded; they have no access.

Now, I would ask the Senator if that is a fair and equitable solution to keep any American citizen bound, if you will, by Federal restrictions that don't allow them to develop their own land.

Mr. LIEBERMAN. Mr. President, in responding to my friend and colleague from Alaska, it is my conclusion that the Native peoples of Alaska are of mixed opinion on this question of drilling for oil in the Arctic refuge. We have certainly heard testimony here in the Senate from differing points of view. I hear what the Senator said about this group of Native people. Obviously, we have heard very eloquent testimony from representatives of the Gwich'in people in the area who have made a different choice and want to preserve what they have described as part of not only the beauty of the environment but part of their spiritual heritage as a source of life in that area.

So I would say my judgment is that opinion is mixed, and my opinion is that, having made this choice, it would be a shame to have to do the damage that oil exploration would do to the refuge to find adequate and uplifting employment for the people to which the Senator from Alaska refers. There ought to be a better way.

Mr. MURKOWSKI. I would certainly agree there ought to be a better way. Perhaps the Senator is not aware of the public opinion on this issue and how it has changed rather dramatically.

This is a poll that was done by IPSOS-Reid firm, well-known, and the highlights of the poll indicate 95 percent of Americans say Federal action

on energy is important, and 72 percent say passing an energy bill is a higher priority than any other action Congress might take. Seventy-three percent of Americans say Congress should make the energy bill part of President Bush's stimulus plan, and 67 percent of Americans say exploration of new energy sources in the United States, including Alaska's Arctic National Wildlife Refuge, is convincing reason to support passing an energy policy bill.

I would be happy to provide this to the Senator from Connecticut because I think it provides some reality of the interests of our State in reference to development possibilities. Connecticut is a developed State, in population and land patterns, and so forth. But if you had had an opportunity to visit Alaska you would get some idea that we are a pretty big hunk of real estate. We have 365 million acres in our State.

When you use the phrase ''this huge area at risk,'' I think you are being a little incomplete in your reference to what Congress has already restricted in this area. The ANWR area is 19 million acres. That is the size of the State of South Carolina. If you look at the map, you will see where it is as far as its makeup in comparison with the entire State. But what we have done, what Congress has done I think is a pretty good job of conservation. Out of the 19 million acres, they have made 8½ million acres into a wilderness in perpetuity, and they left this other area untouched by Congress when they set aside the coastal plain specifically for determination back in 1980 because of the prospects for major oil and gas discoveries. Now the footprint here, as you indicate in your statement, under the current bill, H.R. 4, is 2,000 acres. That is not very much. But when you indicate ''all this development'', this is written obviously by some of the environmental groups, and they are very much opposed to this because we have an infrastructure already built, 800 miles of pipeline.

If the Senator from Connecticut had been here and debated the issue of whether or not to open up Prudhoe Bay, we would be dealing with exactly the same issues, only some that are more complex, because the concern was: What happens when you build an 800-mile pipeline across the breadth of Alaska? Are the animals going to cross under it, over it, or will there be a fence? Will it be a hot pipeline? In permafrost? Will it melt, and so forth?

This pipeline is owned by the three major oil companies in the country: Exxon, British Petroleum, and Phillips Petroleum. It is in their best interest to keep it up. So these allegations that somehow this is unsafe—they continually maintain it. As you know, in any industrial activity, there is a certain amount of wear and tear, and so forth. But it is one of the construction wonders of the world. It is already in. So this infrastructure you are generalizing is not going to occur.

You have the airport here in Kaktovik. You have the residents there, but the technology is different currently because we use ice roads. We don't use permanent roads. That is the technology that is developed. This picture shows the kind of ice road that we do in Alaska. We do it all in the wintertime. As consequence, there is no gravel. Most of the pipeline construction that will take place will be on the surface. But if you look at the compatibility of what happens with the pipeline, it is very friendly to some of the wildlife.

I think the Senator from Connecticut perhaps has seen this. This is a picture of Prudhoe Bay, and these are not stuffed animals. They are real. Here is another one relative to what the bears are doing to the pipeline. It beats walking in the snow.

So a lot of these generalizations are exaggerated. What is not exaggerated is there is no sensitivity to the residents of the area. To suggest somehow the Gwich'ins, who are a population based mostly in Canada, are opposed entirely to oil and gas exploration is a bit extreme. Three-quarters of the Gwich'ins live in Canada, and the Gwich'ins in Canada have developed a corporation and are now drilling on Gwich'in land in Canada, and the Gwich'ins in Alaska for the most part are funded by the Sierra Club in their efforts to terminate this. I have copies of the leases they signed. The Native village of Ekwok—which is adjacent to the route of the Porcupine caribou—they have sold their own leases for oil and gas exploration in Alaska. They are looking for jobs as well. There is more to this than meets the eye.

I wonder if the Senator is aware that the Gwich'ins have leased their land previously in Alaska, and they leased it specifically for oil development back in, I think it was 1984?

Mr. LIEBERMAN. Mr. President, I had not heard that, of course, but I am glad to pursue the question. What I have heard is the very fervent and, I found, compelling testimony of the Gwich'in people who have come to Congress to speak to us against drilling in the refuge.

I will say a few words in response, if I may, to what the Senator from Alaska said. Alaska is a big piece of real estate. I believe those were the words used. Connecticut is a small piece of real estate. It is more developed, although the last time I looked, more than two-thirds of our State of Connecticut and the great popular sentiment in the State was to limit development, to preserve those natural spaces. For the same reasons, there is a national movement of support for preserving the great, very unusual, natural spaces in Alaska.

I say also, from the experts I have talked to, the area involved is really unique. The coastal plain is the biological heart of the whole refuge. So it has to be given a special status.

I quote from the U.S. Fish and Wildlife Service, that the effects of disturbance and displacement of the Porcupine caribou herd are likely to occur more rapidly and at a much greater scale if oil development is allowed in the refuge. The accumulative effects of reduced access to the coastal plain habitat caused by industrial development would be a major adverse impact on the herd. Notwithstanding the pictures we have seen, that is the expert judgment given in a letter to our colleague from Illinois, Senator DURBIN.

Finally, most every poll I have seen still shows American public opinion opposed to drilling in the refuge, even at a time when concern about energy has risen. I suppose this gets to a point that sounds like the old line about economists, that if you lay them end to end across the world, they would not reach a conclusion.

I will present other polls. The most recent I have seen taken by the Mellman Group, based on a national survey of 1,000 U.S. voters that was conducted in early October, found that 57 percent of Americans did not believe drilling in the refuge would reduce our dependence on foreign oil. An independent poll taken by Gallup from October 8 to 11 showed a majority of Americans, 51 percent, opposed oil exploration in the Arctic National Wildlife Refuge.

Beyond the polling, as I said earlier, to me this is a matter of national principles, national values, national policies, what makes common sense in terms of achieving energy security and energy independence, energy efficiency, which my friend from Alaska and I, and I presume all Members of the Senate, have as common goals.

While public opinion is significant—and I am glad, according to the polls I cited, it is on our side in the debate—about whether to drill in the Arctic Refuge, ultimately I think we all have to make our judgment about what is best for our country. My judgment is that drilling in the Arctic Refuge for oil would not be best for our country.

I apologize to my friend from Alaska that I have a previous commitment and I have to leave. I have a feeling we will return to this debate again after the first of the year and probably at length. I have great respect for the Senator from Alaska, so I look forward to that debate. Hopefully the result will be more knowledge and perhaps even a bit of wisdom.

Mr. MURKOWSKI. I appreciate the comments. I can assure the Senator from Connecticut that the Senator from Alaska intends to bring this matter up to a vote, as does my Senate colleague, Senator STEVENS.

The frustrating thing is we are always put in a position of having to identify with detail and rationale the reasons we believe the 1002 Area could be opened safely. Of course, we come from the State and we know something about the State and the factual information. What we have attempted to do over the years is to encourage Members to come and see for themselves so they can make a fair evaluation, because

the action taken by the mass will determine what happens in our State.

It seems to put us in a position where what is best for Alaska and what is best for our constituents based on what they tell us they want is somewhat overridden by the dictate of those outside the state. We happen to be the only State still under development. We came in with Hawaii, but obviously we are a State with huge resources. We have 56 million acres of wilderness in our State. I think somebody figured out how much oil there is in ANWR and the comparison of whether it is a viable supply. They did a calculation, and based on 10 billion barrels, it would amount to a supply for Connecticut for 126½ years.

I see my colleague has had to leave to take a phone call, but I am going to be answering throughout the day some of his generalizations because, frankly, they do not hold water, and they certainly do not hold oil. He indicated a willingness to proceed on a very studied and timely process he hopes will be reflected in the bill we understand is coming down, not from the chairman of the Energy and Natural Resources Committee but, rather, from the majority leader.

We have been working on this legislation in committee for several years. We have held extensive hearings. So it is not something that has not had a great deal of forethought, has not had a great deal of consideration. It was removed, through the dictates of the majority leader, from the committee of jurisdiction. It has been taken away from the committee, and whatever bill we will be seeing will not be representative of a bipartisan effort but strictly the result of Senator DASCHLE and I assume others on their side of the aisle. So we will be right back in the same position we were on the Finance Committee relative to the manner in which the stimulus package was submitted. It was submitted on one side, and the Republicans had no input into it.

The point is this Nation needs a policy, regardless of what poll we see, on the issue of national energy security.

There is virtually total support we should have an energy bill.

Now the merits of ANWR obviously get us into a discussion, but we believe that dramatically there has been a turnaround in public opinion. One of the reasons that turnaround has occurred is the realization of what happened off Iraq a few weeks ago where we were boarding a tanker. We had the U.S. Navy inspecting the tanker for the specific purpose of determining whether Saddam Hussein was exporting oil above and beyond that of the guidelines of the U.N. They boarded this ship. The ship sank. Two American sailors died. That might not have been necessary had our previous President not vetoed a bill in 1995 that would have allowed the opening of ANWR because that did pass this body in 1995.

These are what ifs, I know, but nevertheless, to suggest somehow we cannot do this safely is basically incorrect. That we would not get oil for 10 years is totally incorrect. We will have oil within 18 months to 2 years because we only have about 60 miles of pipeline. To say it is a 6-month supply is not accurate because that would presume no other domestic production anywhere in the U.S., and no imports of oil. Under what realistic circumstance would all other oil production be terminated in the United States as well as imports coming in? ANWR is estimated to hold between 5.6 and 16 billion barrels. If it is half that, it will be as large as Prudhoe Bay, which has supplied this Nation with 25 percent of its oil for the last 27 years. Many of the opponents who are going to speak against this have not been up there. They have not met with the Native people who are affected. Our people in Alaska, as American citizens, deserve that consideration.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

THE ECONOMIC STIMULUS PACKAGE

Mr. NELSON of Florida. I thank the Senator from Alaska and I thank the Presiding Officer, the Senator from Hawaii, who is kind enough to stay a couple of moments extra before I take the chair so that I might make a couple of remarks.

I compliment and encourage the bipartisan efforts among the leadership in meeting with the President to discuss how to best proceed on an economic stimulus package.

The efforts of those negotiators, in the framework set out last night whereby the top elected leadership of both parties in this Chamber will approach their efforts with the leadership in the House of Representatives and come to an agreement with regard to a stimulus package and taxes, is clearly a step in the right direction. We do need a stimulus package. We need it as soon as possible. We need it operative by the end of this year.

A few days ago, the National Bureau of Economic Research declared the U.S. economy has been in a recession since March. Some have responded to that announcement by saying since 6 months have already transpired, and since our average recession is typically less than 11 months, there was not a need to pass an economic stimulus package. They would say our economy at this point would likely recover on its own.

I disagree with those conclusions. That is why I think we ought to move ahead with a stimulus package. That has all the more been brought to light by virtue of the announcement made by the administration yesterday that indeed the surpluses we were counting on projecting over the next several years are not going to be there. In fact, the sad news was that we were going to be in deficit financing; that is, spending more in any one year than we have had coming in tax revenue.

How quickly things have changed. Just a few months ago we were still talking about the beneficence of projected surpluses over the course of the next 10 years and how we were going to be able to take care of a lot of the spending needs, including—this was prior to September 11—the increased defense costs that clearly were a priority, and still be able to have substantial tax cuts and preserve the integrity of the Social Security trust fund surplus so it was untouched. Therefore, that surplus was going to pay off the national debt over the course of the next decade.

Now all of that has been knocked in a cocked hat because of the slowed economy, the lessened surplus projected over the next decade, and then because we enacted a huge tax cut, a tax cut that over 10 years was in excess of $2 trillion. The effect of that has led to the present economic malaise and economic projections so that now the administration is saying we will have deficit spending over the next 3 years.

It is with a heavy heart suddenly we have to face these new conditions. It is all the more important to have a stimulus package. Clearly, in my State, the State of Florida, we are feeling the effects big time. We are feeling the effects big time also because of September 11, the fear factor out there of people not wanting to get on an airplane. I have said many times from this desk—and I fly every weekend at least twice—I think it is safe to fly. However, there are still a lot of people who do not think it is safe to fly. As a result, they will fly for business reasons, but they will not fly for leisure and vacations.

There are parts of this country that are highly economically devastated. One such place is the capital city of the State of the Presiding Officer, Honolulu. Another is the largest tourist destination in the world, Orlando, FL.

Another is Miami, with its robust cruise tourism business. Another is Las Vegas. We can look at the list of cities that as part of their economy are inextricably entwined with travel and tourism. We can see the economic devastation. When the leisure travelers are not flying, they are not getting into the hotels; when they are not getting into the hotels, they are not going into the restaurants, they are not going into the gift shops, and they are not going to the tourist attractions. As a result, we see the economic devastation.

As wartime conditions continue, we should expect to see a continued loss of tax revenue due to the precipitous drop in travel and tourism and the overall economic activity. While every State has been affected to some degree, and travel and tourism is one of the top 3 industries in 30 of our 50 States, clearly States such as the State of the Presiding Officer and my State of Florida have been uniquely impacted due to the significant presence of the tourism and aviation industries in those States.

For example, since the end of September, the average daily unemployment claims for Florida have risen by 55 percent, translating into approximately 50,000 more Floridians applying for unemployment benefits. That is mind-boggling. That is staggering.

The unemployment rate in Florida is expected to peak at 6.1 percent next summer. The latest State forecast anticipates 120,000 lost jobs by the end of June, with an additional 115,000 jobs lost in the following fiscal year. And that is only in one State, my State of Florida.

So these statistics show that we still need help, a tremendous amount of it. As we speak today, Florida's State Legislature is meeting in the capital city of Tallahassee once again, trying to rewrite the State budget to make up for more than $1.3 billion in lost revenue, while also trying to fund rising unemployment claims and skyrocketing assistance needs of those, the least fortunate among us.

So while it is entirely possible that we have already seen the worst of our economic drops—I certainly hope that is the case—the ramifications of these losses will be felt by Florida and many other States for many months and possibly for years to come.

There is no time to waste. We must pass a stimulus package as soon as possible. The substance of that package is clearly the very sticking point where we have substantive disagreement among lawmakers, not only in the Senate but at the other end of the hall in the House of Representatives. There is significant disagreement between that body and this body. Yet there are still many areas on which we can agree: increasing unemployment benefits, helping the unemployed maintain their health insurance, helping our States ride out a recession with fewer Federal spending cuts. At the same time, we must provide assistance to our smaller and medium-sized businesses, and to those sectors that have been hardest hit in these difficult times. Those are the things we can agree on, and we ought to come together in the stimulus package and make that happen.

Once again, I applaud the continued efforts of the majority leader and the minority leader, the chairman and ranking member of the Finance Committee, Senators BAUCUS and GRASSLEY, for sitting down again today to try to come up with an agreement. Once they come up with that agreement, then we can pass it. We can pass it before we adjourn. We can get it into law—the President has said he will sign it—and we can start to take care of our weakening economy.

MAJOR LEAGUE BASEBALL CONTRACTION

Mr. NELSON of Florida. Mr. President, we have another potential economic devastation in the State of Florida. Lo and behold, major league baseball has voted to eliminate two teams. The media reports suggest that four teams are on the short list of those that might be dissolved. Lo and behold, two of the four are from Florida—the Florida Marlins and the Tampa Bay Devil Rays—and the other two that are on the list of four are the Montreal Expos and the Minnesota Twins. If any of the four teams currently under consideration for elimination are dissolved—any of those four—the impact to Florida would be significant. Doing so, especially without input from the communities and the regions where the teams are based, would be a mistake.

Baseball made promises to communities in my State that were relied upon by individuals who then built businesses and other assets around the teams. Both Miami and Tampa Bay have invested millions of dollars and years of sweat equity in their teams. Hotels, restaurants, concession vendors, and other hospitality companies, already reeling from the September 11 tragedy, stand to take staggering losses if baseball fails to honor its obligations. Yet the league has completely shut them out of the process, keeping everyone in the dark. The owners got together and made these decisions. They didn't reach out to the communities and get their input.

Take, for example, eliminating the Minnesota Twins, which I suspect would have a great deal of interest to our Senators from the State of Minnesota, and the Montreal Expos, that would have considerable interest to the Senators who border that area. Let me tell you, that would be very troubling for Florida as well because both these teams have a significant minor league presence, and they have wonderful spring training facilities in the State of Florida. Their dissolution would have a direct negative impact on Lee County, which is Fort Myers and Palm Beach County, the city of West Palm Beach where the teams train and play. Many individuals and small businesses in these areas depend on the teams for their livelihood and would be irreparably harmed if the teams folded.

Florida's attorney general, my good friend, Bob Butterworth, explained the problem best when he said ''the people of Florida are entitled to some straight answers about the future of major league baseball in this State.'' That is why I strongly support Attorney General Butterworth's decision to send investigative subpoenas to major league baseball. The people of Florida deserve to know what was said behind closed doors. I applaud the attorney general for taking action so we can get to the bottom of this problem and take whatever additional steps are necessary, including legal action to keep baseball in Florida for many years to come.

It is my understanding we are soon going to have a hearing in the Commerce Committee, on which I have the great privilege to sit as a member, on this particular subject. To be forewarned is to be forearmed. We want some answers in that committee hearing. The league has an obligation to live up to its promises to the people of Florida, and I intend to work ceaselessly to ensure they do.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, Senator CRAIG is here seeking recognition on the pending package that is before us. I yield whatever time he might need for that purpose.

The PRESIDING OFFICER. The Senator from Idaho.

ENERGY POLICY

Mr. CRAIG. Mr. President, I thank the ranking member of the Energy Committee, the Senator from Alaska, Mr. MURKOWSKI, for allowing me this time on the floor.

First, I do want to say for all of us, and for the record, a special thanks to Senator FRANK MURKOWSKI for the phenomenal leadership effort he has put into the issue of energy and the development of a national energy policy for our country. He truly has been relentless over the last good number of years, not just starting when the lights went out in California but long before that when he and I and others who serve on that important committee in the Senate began to recognize that if we did not start reinvesting in the energy infrastructure of our country, that our Nation would at some point be in trouble.

We have watched, over the last decade, our ramping up of a dependency on foreign oil sources. We began to see a rapid use of the surplus of electrical energy that was out there a decade ago, as our country, through the decade of the 1990s, continued to grow 3 and 4 and 5 percent. No one was really reinvesting in building new generating capacity on the electrical side.

As many know, starting in the mid-1990s we began to encourage the Clinton administration to come forward with a national energy policy, one that dealt with this broad range of issues. We called it the market basket of energy: the oil side, the hydrocarbon side, the coal side, the electrical-generation side, the new technology side. We began to invest in new technologies, in wind and in solar. We put money into fuel cells.

Clearly, over the last good number of years we have advanced many of those technologies, but they are not yet mainstream. They do not yet fill up the market basket of energy, and we are still dominantly reliant on electricity generated by coal, by nuclear, and by hydro. We are still dominantly dependent on hydrocarbons, gases, and, of course, the crude that comes from around the world. We know it is well over 50 percent. We are sometimes 60-percent dependent on someone somewhere else in the world being willing to put their product into the market for us to buy.

The lights began to go out in California about a year and a half ago. It

was a major wake-up call to this country. California being our largest State and being the largest piece of the American economy, we knew that if California faltered and failed it could drag the rest of the economy down with it. I am from Idaho. Our State is part of a regional electrical grid that is dominated by the impact of California action. The State of Oregon, the State of Washington, the State of Montana, parts of Nevada, parts of New Mexico, and parts of Arizona were caught up in the California episode. I use the word ''episode'' as it relates to California.

As we watched California restructure its electrical system, there was not an economist out there nor a few reasonable observers who knew electricity who said California was doing the right thing. In fact, most said California was doing the wrong thing, and that at some time in the future California would find itself in trouble. That is exactly what happened.

My State of Idaho, being in that grid, began to get in trouble, too. We had the least cost power. We were hydro based. All of a sudden, our rates started going up.

As a little side note to the rates going up, because we are a hydro-based State and because over the last 2 years the Pacific Northwest has been in a drought, we were in even worse trouble. The energy issue in Idaho became a very strong issue as it grew across this country.

A new President was elected last November. While he talked about education and he talked about compassionate conservatism, in one of the first meetings I had with President George W. Bush, he stood aside those issues and said: The most important issue for our country at this moment in time is the development of a national energy policy and a reduction of the dependency of our country and its consumers and our economy on foreign sources of energy, and I am going to assemble a task force headed by Vice President CHENEY. We are going to make our proposals, and we are going to lead on this issue. We want you to work with us so we can develop a truly national, comprehensive policy.

That was the beginning of a strong effort on the part of the House, the Senate, and the administration to work on the issue of energy.

There are a lot of side stories and a good many side notes to this whole effort. But there is one thing that is very clear in the minds of the American people: That we are not masters of our own destiny when it comes to energy; that we are a phenomenally dependent economy when it comes to an adequate, abundant supply of energy at a reasonably low base price in that economy; when that fails or when those prices go radically up because the market price drives it, our economy is in trouble.

About a year ago, Alan Greenspan said the recession was beginning to appear as a slowing of the economy, and it was clearly evident that the spike in energy costs would take a full percentage point off the economy and would cost millions of jobs in the economy as business and industry offset their profitability or their costs based on an unbudgeted, rapid increase in the price of energy.

All of those scenarios played themselves out. All of them are extremely important to this country.

The Senate began to work its will. The House began to work its will. Lots of hearings were held. We were beginning to shape and write a bill in the Senate. FRANK MURKOWSKI, LARRY CRAIG, and a good many others had already introduced a bill earlier in the year. Chairman BINGAMAN introduced a bill earlier in the year. There were opposing points of view on energy—not dramatically different but different. That is OK. That is fair. That is the way the process works. But all of them were intended to come back to the Energy Committee in the Senate.

Out of the effort of the Murkowski-Craig bill and the Bingaman bill, we were going to produce a national energy policy bill for the Senate which we planned to do through the months of September and early October after coming back from the August recess. The House had already worked its will with H.R. 4.

The amendment we are offering today is the House product. But it was done before September, during the August recess. The House moved a little more quickly than we did and built a reasonably comprehensive bill to solve the problem I have just in a general way laid out for all of us.

We came back from the August recess. The Senate began its work in the Energy Committee. Of course, the House had already worked its will and sent a very loud message to us, to the President, and to the American people that we could produce a comprehensive bill which included some very controversial but extremely important issues in it, such as exploration in northern Alaska as it dealt with broadening and developing our oil reserves.

All of this is at hand when September 11 occurs—a dramatic and horrible time for our country. That incident and all of the preceding events have clearly reshaped the thinking of the American people about a lot of things. But very clearly it has reshaped the thinking of the American people in their attitude towards energy and energy supply.

Let me give you an example. If you polled on the issue of oil exploration in northern Alaska before the September recess, a slight majority of the American people would have said: I don't think so. I don't think we ought to do that. After September 11, a substantial majority—from 40-plus to 60-plus—said: Yes, do it. Do it environmentally safe, but do it because all of a sudden the American people were focused as never before on our weaknesses, our dependency, and our inability to stand alone and stand firm. We had been struck. We had been hit. Thousands of Americans had been killed.

Guess what. They came out of the Middle East. Guess where the largest supply of oil comes from on which we are dependent. It comes from the Middle East.

Americans said: Why should that be so? Can't we be more independent? Can't we stand alone more strongly? We shouldn't be at risk. We are at risk. We were just struck on our soil, and thousands of Americans died.

That was the thinking, and it was very clear.

Here is an example. This is a poll taken on November 14. Ninety-five percent of Americans say Federal action on energy is important; 72 percent of Americans say passing a bill is a higher priority compared to other actions Congress might take these days.

The American people have elevated the energy policy issue as high as they have elevated airport security, as high as they have elevated antiterrorism, as high as they have elevated anti-biological warfare and anti-chemical warfare. It has become a national priority.

Seventy-three percent of Americans say Congress should make energy a part of President Bush's stimulus package, and 67 percent of Americans say exploration for energy in the United States, including Alaska, should be part of a national energy policy.

Post-September 11, some pollsters said, was the most significant shift in the minds of the American people in the history of modern-day polling. I believe that is true because Americans not only were fearful of what had happened but they began to reassess their own personal security, their families' security, their communities' security, and their States' security, and said: We are not secure.

When I go to the gas pump and I fill my car, I am buying oil from Saddam Hussein. It is true—700,000 barrels of oil a day come out of Iraq, 12 million a day of your consumer dollars. Americans are paying $4 billion a year to an enemy so that he can further his weapons of mass destruction, so that he can fight a war against us and our friends in the Middle East. Yes, that is the reality of what we are doing. We did not do it consciously. We fell into it. We fell into it because this country has rapidly fallen into greater dependency on energy sources because we refuse to develop our own in a comprehensive, balanced, and environmentally sound way.

Somehow there was this prohibition attitude that said, no, do not go there, even if there is energy there. We will buy it somewhere else. The environment is so valuable you cannot go there, whether it is offshore or onshore across America. What it did for us was open our soft underbelly of dependency to foreign interests, and shame on us for doing so. The American people are now saying that, and they are saying: Congress, change your attitude.

Change your mind. We want to be stronger. We want to stand on our own two feet. We want to be able to supply a reasonable amount of energy for us, for our needs.

New technologies? Absolutely. Alternative sources? Absolutely. But we also know for the next 25 or 30 years we are going to be dominantly dependent on hydrocarbons—gas and oil—we are going to be increasingly dependent on nuclear—and we should be; it is clean, and we ought to be building more nuclear facilities; we can meet our clean air standards if we build nuclear—and we ought to be looking at clean coal technology, and we have lots of coal. All of those things need to get done. There need not be a rush to judgment. There simply needs to be a systematic, methodical approach for dealing with this crisis.

The speech I am giving today is in the backdrop of declining gas prices across America. I am sure there are a few of our critics out there saying: Oh, well, now look. They are rushing to judgment once again. There go those doomsdayers.

What they ought to be saying is, because our economy has fallen almost on its face, there is a lessening demand for energy. We are not using as much in the airlines. We are operating at 60 percent there. Americans are doing less. Industry is doing less. We all know those figures.

This week, for the first time, our agencies declared we were in recession. That is a large part of why we have seen declining usage. So if we have this moment of opportunity to bring more energy on line and lower the costs, it is, and it can be, one of the greatest stimuli to the economy of this country, if we do it and do it right.

That is the scenario. That is where we are at this moment. And throughout all of this, something strange has happened. About a month ago, the majority leader of the Senate, TOM DASCHLE, picked up the phone and called Chairman BINGAMAN and said: Shut your Energy Committee down. I don't want you to mark up a comprehensive energy bill in committee.

Why did he do that? I believe I know, but he has not told me personally. It was an unprecedented action.

In the backdrop of all of this new national attention on the need for a greater sense of strength and energy, the leader of the Senate reaches out to his committee and shuts it down—the very committee that would craft the energy bill. I will tell you why he did it. Times have changed. He was behind the curve. America said explore in Alaska as a part of a comprehensive policy, and he had an environmental political debt to pay, and he is going to pay it. The way to do that is not to allow that vote on the floor, not to allow that vote, when the American fervor of self-reliance is high and when the American fear of foreign dependency is higher. We hope that will settle out, I think he thought. And next year—next year—sometime we will do a national energy policy and maybe then we can win the vote on ANWR.

What he failed to recognize was that before the crisis in September, the House had already passed a bill with Alaska exploration in it. It has only increased, since September 11, the attitude toward that kind of exploration.

So because the majority leader of the Senate shut his committee down in an unprecedented act and denied them the right to mark up a bill in the appropriate bipartisan way, we are on the floor today, using a tactic that is procedural and appropriate but somewhat unprecedented when it comes to offering up a major national energy policy.

The bill we would have produced, the bill that Chairman BINGAMAN would have produced had he been allowed to, had he not been forced to shut down his committee, would have been a much stronger bill and a broader bill than the H.R. 4 bill that we have on the floor today, the amendment that we are going to try to attach to railroad retirement because we have been given no other alternative on this critically important issue.

I support railroad retirement. Railroad retirement will be strong if railroads can buy reasonably inexpensive diesel to fuel those big trains out there. But if diesel were to go to $3 or $4 a gallon, railroad retirement and the financial stability of the railroads would not be worth much. That is why it is appropriate to put an energy bill that will keep costs to the rails down and costs to the consumer down as it relates to their need for energy and attach it to this legislation.

But the reason we are doing it is because the majority leader of the Senate has denied us no other approach. In fact, he has denied the right of the Senate to work its will, to do what the American people want, what 95 percent of the American people say is now necessary, what 72 percent of the American people now say is a critical priority that ought to be included in President Bush's stimulus package to improve the state of the economy.

And where is our majority leader headed? In the other direction, away from what the American people are asking for, and what our President is pleading with us to get done before we leave town for Christmas.

The Senator from Texas has come to the Chamber and wants to speak. Let me mention just a few other things about a national energy policy.

One item in a comprehensive bill deals with exploration in Alaska—one item—and yet if you listen to the debate or you listen to the critics, you only hear one item: Alaska.

Let me talk about a few other things. H.R. 4, the amendment that we want to put on here, that we are going to be voting on on Monday, reauthorizes Federal energy conservation programs and directs the Federal Government to take leadership in energy conservation with new energy savings goals—produce more but use less. It means you can have a growth economy and an abundance of energy. It isn't all conservation, and we know it. It expands Federal Energy Savings Performance Contracting authority. It increases Low Income Home Energy Assistance Program—what we call LIHEAP—and Weatherization and State Energy Program authorization levels to meet needs of low-income families. Most of us want that and think it is appropriate. That is a part of it.

It expands the EPA/DOE Energy Star Program and directs the EPA and DOE to determine whether Energy Star labels should be extended to additional products. That is called causing and promoting industries out there to produce instruments and equipment and usages for consumers that consume less energy. That is called conservation.

It directs DOE to set standards for appliances that are on ''standby mode'' energy use. A lot of energy is being used today by the new high-tech economy. We are asking—and causing by promotion and credit in the marketplace—that industry, as it grows, that it should produce products that consume less energy.

That sounds like a pretty good idea. It reduces light truck fuel consumption by 5 billion gallons over the next 6 years, improves Federal fleet fuel economy, and expands use of hybrid vehicles. That is new technology. Those of our friends who are critics about exploration on the public and private grounds of Americans say: You can lead out of this with just the new technology. We are saying: Let's do both. Let's put the new technologies on line. While the old technologies are being replaced, let the marketplace work and the infrastructure that supplies these new technologies build over time. And it will, as they become viable.

About a year ago I went to Dearborn, MI. I drove a new Ford fuel cell electric car. It was a beautiful car. I had it out on the racetrack, roaring around the track with an engineer. He said: Feel the thrust. He didn't say: Step on the gas, he said: Step on the pedal. There was no gas in that car. It was a hydrogen fuel cell car. I kind of slipped on one corner because it was raining. He said: You better be careful; this car costs $6 million. I had never driven a $6 million car. His point was it was a prototype. It is very expensive. As it comes on line in the market and the market expands, the price will go down dramatically.

In order to build an assembly line to produce a hydrogen fuel cell car, it would compete in the market with other cars, but then where would you fuel it? You have to build fueling stations around the country. The gas station that we drive into today is a product of 70 years of building up an industry to supply an American need. Not overnight do we replace that with a new industry that could fuel a hydrogen fuel cell car.

That is my point about working to bring new technologies on line while building the resource of the current technology and the current energy.

I could go on through the long list of items that are in H.R. 4. The point is simple. While the public's attention will be directed toward a single item in a major comprehensive bill, called exploration in northern Alaska, what the rest of the world needs to hear is that there is a lot more to talk about and a lot more to get done.

Let me close by saying: TOM DASCHLE, 95 percent of the American people are asking you to help us produce a national energy policy. The President and the Republican Senate and 73 percent of the American people are saying: Mr. DASCHLE, allow it to be a part of the economic stimulus package. It is that important. Senator DASCHLE: Why don't you lead us and help us get there instead of blocking us and trying to stop us from getting there?

I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Florida). The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, let me identify myself with the excellent remarks of our colleague who just spoke. We are going to have an opportunity on Monday to determine whether or not we want to debate energy policy in America and whether we want to deal with the problem of human cloning. That will come on the cloture vote. If cloture is invoked on the railroad retirement bill, those two issues will be sheared off and we won't get an opportunity to vote on them. If cloture is not invoked, we would get an opportunity to vote yes or no on them, and then they would go forward as part of the railroad retirement bill, if they were adopted. I identify myself with the excellent remarks that were given.

I must be getting 300 or 400 calls a day about railroad retirement. I am getting lots of letters—I am not getting the letters; they are coming, and I am going to get them some day when we get through with this anthrax business and I will be able to answer them. It frustrates me.

I would like to try, as briefly as I can today, to explain this issue on railroad retirement at least as I see it. I will try to present the facts. We are all entitled to our own opinion, but we are not all entitled to our own facts.

The first way, the best way to start this discussion is to explain how I became involved in the debate. About a year ago, I had representatives of the rail labor unions and the railroads come to see me to talk to me about a proposal they had to ''reform railroad retirement.''

I guess other things being the same, I am for reform. But when it became clear that they were talking about taking the sterile assets that are now sitting in a meaningless IOU in the Federal treasury and investing it in stocks and bonds and real wealth, out of which they were going to be able to pay benefits to railroad retirees, I think it is fair to say that even for an old jaded politician, I was excited about this bill. Into my office came all of these people, representing these major interests, very knowledgeable, very intelligent people who were there to lobby me on behalf of it.

I guess it took me about 5 minutes to figure out that something didn't add up. Let me offer a little information to set the predicate for that.

As everybody who has not been hiding under a rock somewhere for the last 25 years knows, Social Security is in trouble. We have gone from 42 workers per retiree, when we started paying Social Security benefits, to 3.3 workers today per retiree. We are in sheer panic—I am—about what we are going to do as baby boomers start to retire, and we move from 3.3 workers per retiree to 2 workers per retiree.

While I may be the strongest proponent on the planet of taking the Social Security surpluses we have and investing them in real wealth to bring in what Einstein called the most powerful force in the universe, the power of compound interest, I have never claimed, nor has anyone ever claimed, that for the next 25 years that even the best investment program imaginable by the mind of man could enable us to raise Social Security benefits now, to lower the retirement age for Social Security benefits now, or to cut Social Security taxes now.

I have not been here forever, but I didn't just come in on a turnip truck yesterday. I started with this knowledge that in Social Security, with 3.3 workers per retiree, we are looking at dramatic increases in taxes or dramatic reductions in benefits, and maybe both, and that an investment component could mean less in the way of reductions in benefits and less in the way of increases in taxes. But not by any imagination that I have could I have believed that we could with any kind of investment program in Social Security raise benefits today and cut taxes today knowing that in Social Security there is only 3.3 workers per retiree. And yet these people come to my office and tell me that we can have a railroad retirement investment program and that we can immediately slash taxes that are going to fund railroad retirement. We can immediately increase benefits. We can immediately change the retirement age.

We are in the process now of raising the retirement age for Social Security from 65 to 67. And in walk these people saying to me: Look, with this little investment program, we can today change the retirement age in railroad retirement from 62 to 60.

While I wouldn't have believed that for Social Security, let me give one more set of facts. Today in Social Security we have 3.3 workers per retiree. In the railroads, we have one worker per three retirees. The railroad retirement program is in nine times worse shape than the Social Security program. We have three workers per retiree in Social Security, they have one worker for three retirees in railroad retirement. And yet these people, highly paid, highly intelligent people came in to my office. They were lobbyists. I don't begin to act as if something is wrong with lobbying. The Constitution guaranteed them the right to come make this pitch to me. But with a straight face, they came in my office and said: If you will let us take $15 billion, we will invest it, we will raise benefits, we will lower the retirement age—and I am not talking about way off in the sweet by and by, I am talking about today—we will raise benefits, we will lower the retirement age to 60, we will cut taxes on the railroads that fund railroad retirement, and it will just be great.

Now, I am sorry to say, I don't know what their pitch was to the 74 Members of the Senate who signed on as cosponsors, but that was their pitch to me. I didn't believe it. And I was right. I will explain to you why I was right. I didn't believe it because it didn't make any sense. And now that we have the railroad retirement board to work out all the numbers, let me tell you what the plan is and then show it in terms of the numbers and talk about the danger it creates.

What must have happened is—and this is just theoretical, but it seems to me this is what happened—our railroads have had problems really since their formation because they got lots of assistance from the Government. They negotiated labor agreements that didn't make sense. They had massive featherbedding. When they started competing against trucks in the 1930s, they were forced to reduce their labor force. So they had this huge number of people, they have huge severance pay packages, and they have very high retirement benefits. So they got in financial troubles.

I am sure that sometime last year, or the year before, somebody with the railroad said: Look, we have over $15 billion of real assets in the railroad retirement program. You need to realize that railroad retirement has never been self-sufficient; the Federal taxpayer heavily subsidizes it, and there is no private retirement program that could run with the benefits it is paying out, with a trust fund as small as their trust fund. So it has never been self-sustaining; the Government has always been a very heavy contributor to it.

But what must have happened last year, or the year before, is somebody with the railroad said: Wouldn't it be great if we could get some of that money out of that trust fund? We would like to have it.

But they could not figure out, to save their lives, how they could raid the railroad retirement trust fund without the unions going absolutely crazy. So it looks to me as if some really smart lawyer, lobbyist, economist—somebody—came up with the idea that the

railroads should go to the unions and say: Look, if you will let us take $7.5 billion out of this retirement fund, we will let you take $7.5 billion out of it, and we will leave the Federal Government on the hook for paying this benefit.

Now that is literally what happened. Today it is typical of the news coverage—and this is an article in the Roanoke Times. I don't know why my clipping service got it. They are talking about my opposition and Senator DOMENICI's and Senator NICKLES', and they say we argue that taxpayers would be left holding the bag because the railroads and the unions want to take the money out of Government funds and invest it.

It is not investing that I am against. It is pilferage that I am against. If they were investing the money, I would be saying hallelujah choruses right here before Christmas. I am for investing it. It is stealing it that I am against.

How can I say such a thing? Let me tell you how. It is true. It is just that simple. What I have done here is taken the data from the railroad retirement board—and I am not a member; this is not my data; these are the facts. According to this line right here on the chart, over the next 25 years the trust fund balance of railroad retirement would look like this under the current system. They are closing in on $25 billion now, and that would rise over the next 25 years from about $20 billion to about $35 billion—still a very modest trust fund for a retirement program the size of railroad retirement. But we rejoice in it.

Now if you listen to the proponents of this bill, they say: Look, all we want to do is take this money and invest it. They assume—and I grant them the assumption because I believe it is true that over the long term they can get 8-percent return on investment. Currently, they are not getting it on government bonds; it is an IOU from the Government itself. It is not really an investment. Investing it would be a good thing. I am for it. Wouldn't you believe that if you were getting no return now, and you had 8 percent after inflation, the value of the trust fund would go up? I mean, what investment can you imagine that—if you were getting an effective zero rate of return today and you started getting 8 percent, don't you think the investment would grow in value? Yes, it should be getting bigger. But what happens, if we adopt this bill, is the trust fund will start falling and will fall dramatically until the emergency provisions of the bill kick in and taxes are automatically raised on the railroads.

What literally happens—and I want people to listen to these figures—under this bill is that the $15 billion is not invested, it is pilfered. What happens under this bill is that over the next 17 years, despite the fact that we are getting a higher rate of return on the money, the balance actually falls by $15 billion.

How do you get a higher rate of return and end up with less money? You end up with less money because, before anything is invested, before one penny is invested, we are going to slash taxes on the railroads from 16.1 percent to 14.75 percent to 14.20 to 13.1, and we are going to lower the retirement age for beneficiaries, we are going to cut the time for vesting in pensions in half, and we are going to raise the value of many pensions.

So what we are literally doing is this, if you work out the numbers. If it doesn't smell like a political deal to you thus far, it will when I give you the numbers. How much of the $15 billion do you think goes to the railroads? How much do you think goes to the employees? You would think, if it were just accidentally distributed by some program, one might get a penny more than the other and it might be a little bit different. Incredibly, over the 17 years, $7.5 billion of this pension fund goes to the railroads and $7.5 billion goes to the union members.

Now what happens when suddenly you have a program where, despite the fact that you are getting interest, which you didn't before, over the next 17 years you have $15 billion less, because before you have invested a penny, you have cut taxes and you have raised benefits—what happens? The program starts having big-time problems. In fact, under their own numbers, what happens is, while the tax rate on the railroads gets down to 13.1 percent by 2004, by 2025, just to cover the portion for which they are liable under this bill, their tax rate would have to be up to 22.1 percent.

The reason this trust fund does not go right through the floor is there is a provision in the bill that says if the trust fund is, for some reason, used up, and the reason is pilferage, that while taxes are being cut on the railroads now and raising benefits now, in the future taxes on the railroads are going to have to be raised to make up the difference, and that tax is capped at 22.1 percent.

Imagine when we have been cutting taxes and increasing benefits and all of a sudden the railroad retirement program is in dire straits and the railroads have to raise the percentage of wages they put into the retirement program from 13.1 percent to 22.1 percent in 3 years, what is going to happen? They are going to run to Congress and say, we are going to go bankrupt. We are going to have to shut down every railroad in America. There is no way we can go from 13.1 percent of our wage bill going into this retirement program in 2019 to 22.1 percent going into it in 2025.

We have let the railroads come in and take $7.5 billion. We have given the employees $7.5 billion. The Federal Government is guaranteeing this retirement program now. We get out to 2022, the bottom is falling out of the program, and so the trust fund, which would have been up here, would have been almost $40 billion under the current system, but now it is down below $10 billion.

Remember, they invested the money. They are getting 8 percent, and the trust fund has gone from almost 40 to below 10? How could that happen? Because they are taking money out of the trust fund and giving it to the railroads and giving it to the retirees.

To fill up this gap, let me give a figure. The year is 2026, 25 years from now. Now we have passed a railroad retirement bill that is loved. The railroads are for it. The retirees are for it. The unions are for it. It is wonderful. It has this cloak that says we are going to let them invest this money, but when we look at the numbers they are not investing the money. They are spending the money.

So 2026 comes. We have a crisis in railroad retirement. The taxpayers are guaranteeing it. What kind of payroll tax would there have to be on January 1, 2026, to put the system back where it would have been had we never passed this bill that has 74 cosponsors? Listen to this. Hold your hat. We would have to have a payroll tax of 153 percent of wages on January 1, 2026, to put back the money that has been pilfered out of railroad retirement.

In other words, if a person is paid $1,500 a month—or say they are being paid $1,000 a month. I guess they do not hire anybody at $1,000 a month, but it makes the arithmetic simple. If somebody is being paid $1,000 a month, $1,530 would have to be put into railroad retirement from the first paycheck in January of 2026 to get the trust fund balance back to where it would have been before the $15 billion was stolen.

Does anybody believe that on January 1, 2026, the railroads are going to be able to pay a payroll tax of 153 percent? Nobody believes that. Nobody believes they are going to be able to pay the payroll tax of 22.1 percent, which the bill would require them to pay. Given the figures of the Railroad Retirement Board, if we pass this bill, the amount of money going into the pension fund from the railroads would go down from 16.1 to 14.75, 14.2, 13.1, and it would be at 13.1 in 2019. So we are right here. The bottom is falling out of the program.

The law starts requiring money to be put back. So within a 6-year period, this payroll tax to fund this program has jumped from 13 percent to 22 percent, and we still are nowhere near where we would be if we had never passed this bill. In fact, as I noted, we would have to have a 153-percent payroll tax to get us back to where we were if we had never done this.

That is not going to happen. Neither one of those payroll taxes are going to happen. What is going to happen is we are going to pass this bill and, boy, it is going to be loved. This is consensus. The railroads are for it. The retirees are for it. The workers are for it. It is true, if one looks at the numbers they are taking $15 billion right out of the

trust fund. But it is a victimless crime, right?

In fact, as one of the railroad executives says in the paper today, ''It is our money.'' It is their money. Well, what if we were taking money out of the Social Security trust fund and giving it away? After all, probably the guy who gets it, it would be their money.

The point is, however, the Federal Government is on the hook to pay these benefits. There is nowhere near enough in the trust fund today to pay the benefits. When we give this $15 billion away, we are putting the taxpayer on the hook and come 2019, when the bottom falls out, the railroads—I am not going to be here. I do not know how many people are going to be here when it happens, but it is going to happen if we pass this bill. When the bottom falls out, the railroads are going to run in and say, we cannot operate and pay these kinds of taxes.

Nobody is going to say, well, you should have thought about that when you participated in stealing $15 billion out of this trust fund. They do not say that.

They are going to say, well, look, we cannot let the railroads go broke. So what we are going to do is we are going to have the Federal Government pay an even larger share of the cost of this retirement program.

That is basically where we are. We have a proposal before us that claims it is reforming the program. It claims it is earning interest on the assets of the railroad retirement program. But if it is earning interest, why are the assets going down instead of going up? Because before one penny is invested, before one penny is earned, it slashes the amount of revenue going into the pension fund. It vastly increased the benefits being paid out.

The railroads are for it because they get $7.5 billion. Railway labor is for it because they get $7.5 billion. Who pays the $7.5 billion? The taxpayer.

Let me sum up by noting what we ought to do. I want to state a paradox. America loves consensus. I have to say when I go to my State, the people are sweeter to me now than they have been in a very long time. I think they are because they sense we are pulling together. We had this terrible thing happen on September 11, and I think for about 6 weeks we did have a pretty good consensus, and I was proud of it.

Bipartisanship and consensus are not always good things. Let me repeat it because it is a pretty startling statement. Bipartisanship and consensus are not always good things. In fact, the Founders understood checks and balances. When labor and business get together, it is not always in the public interest.

What we have in railroad retirement is literally a proposal to pillage $15 billion out of the railroad retirement trust fund over the next 17 years, give half of it to the railroads, half to the union, and the taxpayer ends up in a very deep hole in supporting railroad retirement.

They will claim when you hear the debate: But when it goes to hell, the taxes on the railroads are automatically raised. They are, but only up 22.1 percent. To get back in the year 2026 where we would be if we never let the money be taken out, there must be a payroll tax of 153 percent. Obviously, this is not going to happen.

What should we do? First of all, nobody wants to hear this stuff. When all the people came in to our offices, this sounded as if Christmas had come early, so 74 Members of the Senate signed onto it and gave it a big fat kiss. Now nobody wants to know the problem. Nobody wants to fix it. Here is how we can fix it and still dramatically improve the well-being of the railroad and the retirees. Take the $15 billion and invest it; don't pilfer it, invest it. Then out of the interest that we earn on the investment, once the money is earned, look at strengthening the trust fund, look at these very high taxes railroads have to pay, and look at benefits. But don't go out and spend the money first. Invest the money first, earn on the investment, and then look at using that to make the system safe and sound, first; and then to improve it, second.

I would change the program by requiring, before any taxes are cut, before any benefits are increased, we make the investment and we actually have the money in hand. I do believe there is a very real problem of what we are doing—even if you have the money, and it is clear you don't.

Here is another figure: To just fund the new benefits promised, even with the interest rate you could earn by investing the money, you would have to raise payroll taxes by 6.5 percent more. It would have to be 6.5 percent higher each year, for the next 25 years, just to pay for the lower retirement age, the quicker vesting and the more generous pensions. We are not raising payroll taxes when we increase the benefit; we are lowering them.

We need to fix this bill. We are going to have cloture on it. I hope we have a chance to debate energy, which is a crisis issue, and too human cloning, because I believe the Senate would vote overwhelmingly to at least have a 6-month pause to look at it. That would also give an opportunity to come up with a rational way to improve railroad retirement. This is almost too good to be true, because it is too good to be true. There is no investment scheme that has ever been derived that would let you do what is being done here. If you look at the trust fund, it is clear it is too good to be true because it is not true. I hope, even at this late date, even though people are signed on to this bill, that people will look at it and give us a chance to fix it.

I am going to offer a series of amendments. One of them will say don't cut taxes, don't raise benefits until you have made the investment and earned money to pay it from. Don't just draw down the trust fund, because right now we have a trust fund. Don't use it up now so we don't have it when retirees need it.

Another amendment I will offer would be to not let the money be taken out of the Social Security trust fund to pay for these new benefits. These are things that need to be addressed.

I have come today to basically explain how it is possible to be against this bill. It appears that everybody is for it, but it is a bad bill. It is a dangerous bill. It is a bill that puts the taxpayer in mortal danger. It is a bill that doesn't make any sense on its face. I don't know how anybody could have ever sold it. I am sure whoever came up with this whole deal of giving half of it to labor, half to management, and selling it to Congress as a reform based on investment—even though the trust fund goes down like a rock—I am sure whoever devised this stuff made millions. And they should have.

The problem is, this isn't some kind of game. This is real public policy. The idea that we would have a bill that will literally pillage the trust fund of railroad retirement funds is a startling thing. This may pass. It probably will pass. I would rather it not pass on my watch. I am going to vigorously oppose it. I hope my colleagues, even at this late date, will look at these things. If somebody wants to debate this, if somebody wants to come over and present their figures, if they will let me know, I will come over and debate them on this subject. However, I haven't seen anybody present the argument for the other side. I believe there is no argument for the other side.

What we are seeing is basically misinformation. The idea that we have railroads saying, ''All we want to do is invest the trust fund,'' when billions of dollars are being taken out of the trust fund despite interest that is supposedly being earned, obviously something is very wrong.

I urge my colleagues, I urge people that follow these issues, to look at these facts, verify what I am saying and raise these issues.

People writing about this in the media, don't be confused. I am not concerned about investing $15 billion. That is God's work. I am for investing $15 billion. What is happening, when the trust fund is projected to look like this line, and it is turning out to look like this, that is not investment. That is pillaging. That is taking money out of the trust fund.

We need people to start asking: Why are we doing this when the taxpayer is liable: If they start asking, maybe we can fix it.

I appreciate the indulgence of the Chair. I yield the floor.

The PRESIDING OFFICER (Mr. WYDEN). The Senator from Alaska.

ENERGY POLICY

Mr. MURKOWSKI. Mr. President, let me make sure we know where we are on the legislation before the Senate.

The underlying bill is the railroad retirement bill. We have two amendments combined as one, one is the adoption of H.R. 4, the House energy bill; the other issue concerns a moratorium on cloning for 6 months. That is Senator BROWNBACK's legislation.

I will speak today on the energy issue because I think it is paramount. If we look at the polling information we have, it is obvious what American public opinion consists of. This survey was done in November by the IPSOS-Reid Corporation: 95 percent of Americans say any Federal action on energy is important; 72 percent of Americans say passing an energy bill is a higher priority than any other action Congress could take. Mr. President, 73 percent of Americans say Congress should make the energy bill part of President Bush's stimulus plan. Mr. President, 67 percent of Americans say expiration of new energy sources in the United States, specifically ANWR, is convincing reason to support passing an energy policy bill. That is 67 percent.

I am not particularly happy with the way the energy bill, H.R. 4, which we introduced, is here. It is the House bill, which did pass the House by a substantial margin. I am fearful the vote on Monday at 5 o'clock will be somewhat convoluted because you will be looking at several issues at the same time and Members can justify their positions on perhaps previously having voiced their support for the railroad retirement bill, or voiced their opposition against cloning, or been a proponent or opponent of the House bill.

In any event, the good news is we finally have a energy bill up for discussion because that has not been the case before, because of the majority leader's refusal to allow us time but, more significantly, the refusal to allow the committee process to work.

As we have seen ordinarily around here, the committees do their work and report out a bill and the bill comes before an entire Senate. In this particular case, the energy bill was taken away from the committee chairman and taken over basically by Senator TOM DASCHLE. In so doing, he really stripped, if you will, the responsibility of the committee of jurisdiction. But as the ranking member, all I can do is express my frustration. As a consequence, we still do not have the Democratic bill that we anticipate is coming.

I think it is fair to say there has been a deliberate attempt to discourage the taking up of the House bill before the Senate body, in the manner in which the majority leader has simply exerted his influence. So the members of the committee of jurisdiction will not have had any input in the development, at least from the Republican side, of whatever we are likely to see next week.

Some have said, what is the importance of this? Is there some reason we are rushing into this? I remind my colleagues, we are not rushing into it. This has been before us for a couple of years. We introduced the bill, Senator BREAUX and I, earlier this year. We have had hearings on it. On the other hand, we were precluded from reporting it out of committee for the simple reason that we didn't have the votes to report it out of committee.

This morning we had some discussion with the Senator from Connecticut, Mr. LIEBERMAN. He made several arguments against one portion of the bill and that is the opening of ANWR. I am going to be rebutting these over a period of time because that seems to be the only way we can focus in on the points and try to counter those points with facts rather than fiction.

What he failed to mention earlier today was the rights and interests of the Native people of Alaska who live in the 1002 area, the area of Kaktovik, and their rights to develop their own land in this area. As the chart behind me shows, you can see the ownership of the 95,000 acres of land that is private Native land. This is the 95,000 acres of Native land that is within the 1002 area. That is the area that would be leased.

In the manner in which this land was transferred over to them, while they have the land in fee simple, they have no authority to drill for gas for heating their own homes. These are American citizens entitled to the same rights as any other American citizen. They do live in the area. As a consequence, their rights are certainly thwarted opening up this area where they would have not only access to develop those lands; they would also have access for a route out if they should wish to initiate some exploration.

It is important to recognize there is a human element here. The human element is the residents, the kid who lives in Kaktovik. You have seen the picture before. Some people are under the impression that this is the Serengeti of the Arctic. We have views of the Serengeti, but that is Kaktovik, and it is a village of less than 400 people. The point is, people live there. The point is, it is a very harsh environment.

All through the debate there is no mention of the rights of these people. It is always the environmental community that says we should not support opening ANWR. They come up with no evidence, no suggestion we cannot do it safely. It is just generalities.

Throughout this debate what I am going to be doing is countering the comments that have already been made because they are the same tired arguments you have heard previously. One of the comments is it is only a 6-month supply. That is a ridiculous argument. How anybody could even repeat it here is beyond me because we all know that could only happen if there was no oil production in the United States, it all stopped, there would be no further importation coming into the United States in ships, and we would only depend on one source. That is a bogus argument. I am amazed that intelligent Members of this body would even stoop to suggesting that anyone would buy that kind of argument, a 6-month supply.

Clearly, what we are talking about is a significant discovery, somewhere between 5.6 and 16 billion barrels a day. What does that mean? That means more oil, more proven oil than in Texas. Texas is always considered to be one of the major oil producing States and it is. But from the Energy Information Administration Reports, Texas' proven reserves total 5.3 billion barrels. In 1998, the USGS estimated there was a 95-percent chance that more than 5.7 billion barrels would be found in ANWR. That is a 95-percent chance. That is more than the proven reserves in Texas today.

There is a 50-percent chance of more than 10 billion barrels, and a 5-percent chance of more than 16 billion barrels.

I am going to go into this a little bit more because it is something that constantly comes up, because it is something that was coined by the extreme environmental community that is opposed to this: a 6-month supply. Let's look at this on an average. The average would be Prudhoe Bay.

We have some pictures of Prudhoe Bay here. You can see the oilfield over there; it is the largest oilfield ever found in North America. It was supposed to produce 10 billion barrels and it is almost to its 13 billionth barrel now. That has been supplying the Nation with about 20 percent of its total crude oil for the last 27 years. So it is very significant.

Here is ANWR over here. There is Kaktovik, the village you have seen the pictures of. Then there is the makeup of just what is ANWR. I have told people time and time again, it is a big hunk of real estate. It is 19 million acres in its entirety. The entire State of Alaska is about 365 million acres.

What we have done is, we have done a little comparison for you to show you that ANWR and South Carolina are about the same size. The only difference in the ANWR 19 million acres, we set aside 8.5 million acres as a wilderness in perpetuity. Those are not going to be touched. Nor is the balance of the refuge in the darker yellow. Only the green area is proposed for lease sale. In the House bill before us, the footprint is limited to 2,000 acres. That is the little square you see up in red.

That is the proportion. You have the pipeline already in, the 800-mile pipeline. The same arguments that were used in the 1970s against the pipeline and the late 1960s are prevailing today. We built that pipeline. It is one of the construction wonders of the world. It has moved 20, 25 percent of the total crude oil produced in this country.

I know there are some who have, simply, a closed mind to this issue because they made a commitment to America's environmental community. It is our job to make a commitment to do what is right for America, and what is right for America is to reduce our dependence on imported oil. You do it one

way. You do it by producing more domestically.

You can talk all you want about energy savings, the world moves on oil. You don't drive out of here on hot air. You don't fly out of here on hot air. Your ships and your trains don't move out on hot air. They move on oil. I wish we had another alternative, but we do not.

We can talk about coal. We can talk about natural gas. We can talk about nuclear and we can make our points, but the world moves on oil and we are going to continue moving on oil for some time in the future. That is why it is so important that we develop, here in the United States, an additional supply of significance.

Don't tell me about a 6-month supply because, if you do, you are doing a disservice, not only to your other colleagues but to yourself because you are kidding yourself.

If there is no oil there, believe me, it is not going to be developed. There is no consideration for the Native people's rights. I talked about that earlier this morning. That distresses me because they are my constituents. They have every right as American citizens to control their land and develop their land, and they can't even drill for gas to heat their homes.

Some say we are rushing through this too fast. We have had hearings. Here is the history. Between the 100th and 107th Congresses—this has been around for a long time—there have been over 50 bills regarding this topic, there have been 60 hearings, there have been 5 markups.

Legislation authorizing the opening of ANWR passed the Senate once already—in 1995. Legislation authorizing the opening of ANWR passed the House twice already. The conference report authorizing the opening of ANWR passed the Congress back in 1995. It passed the Senate. But, unfortunately, President Clinton vetoed it. If we had passed it in 1995, it could very well be producing oil.

Something that should lie in the minds of all Americans is that we are starting to lose lives over oil. We lost two U.S. Navy sailors because a ship sank while being inspected by the Navy. It was sailing out of Iraq filled with illegal oil that had gotten beyond the oversight of the U.N. inspectors. The sailors were on that vessel inspecting it, and the ship sank.

The point is this: Had this particular legislation not been vetoed by the President in 1995, I am sure we would have had a different situation relative to the situation we see currently in Iraq. I will talk about that a little later.

In any event, to suggest this thing be given further study, that is a cop-out. We have been at this. We have had hearings. I know the occupant of the chair has been on the committee. This has been under discussion. The obvious road block here is the refusal of the Democratic leadership to allow us to vote it out of committee and to have an up-or-down vote in the committee. They took way the authority of Chairman BINGAMAN and rested it with the majority leader. They do not have a bill yet. Maybe they will have a bill in a day or two, with little or no Republican input. This has become a very partisan issue.

It is similar to what happened on the Finance Committee with the stimulus bill. We had no input, and suddenly we went to markup and to voting the bill out and found it was so partisan that we had to start the process again.

I don't know what the majority leader's objective is in delaying. But we finally have this up before this body. Again, I am distressed with the manner in which we are forced to tie ourselves in on railroad retirement. That should be a separate bill. Nevertheless, we have to take what we can get around here. When you are a small State with a small population, you don't have a large House membership. As you know, we only have one House Member.

Some of the comments from my friend, Senator LIEBERMAN, this morning, about this being an insignificant amount of oil—let me tell you that the estimated 10 billion barrels of oil coming out of ANWR would support his State of Connecticut for 126½ years based on the current petroleum needs of about 216,000 barrels a day. From the standpoint of South Dakota, it would provide oil for South Dakota for 460 years.

We can all throw statistics around. Nevertheless, it is frustrating when there are suggestions that this is a meaningless, insignificant potential and not worth disturbing what they call the Serengeti of the Arctic.

Let me comment a little bit on some of the claims by the Senator from Connecticut that we are rushing through the ANWR process. As I indicated, nothing could be further from the truth.

A conference report authorizing the opening of ANWR passed the Congress in 1995. Reviewing the history shows that ANWR has not only been addressed by this body but it has also been addressed by various agencies of the Department of the Interior, the House of Representatives. The proposal has been before Congress for 14 years.

The time to act is long overdue. The issue has been dragged out long enough over the years. I think both sides know what is happening to us with the vulnerability associated with our increased dependence.

I have some charts that show the actual increase in consumption.

Here is the reality of U.S. petroleum consumption from January of 1990 to September of 1999. You can see that we are currently at a little over 20 million barrels a day in consumption. We can conserve more. If you want a high-mileage car, you can buy it. Any American can choose, through their own free will, cars that are more comfortable or cars that can handle more people.

We have some other charts I want to bring up.

This is where our imports come from—from the OPEC nations: Saudi Arabia, Iraq, Venezuela, and Nigeria. We are importing currently about 56 percent of our total crude oil. I think we have another chart that shows just where we have been. In 1997, we were importing 37 percent. We were importing 56 percent in 2001. The Department of Energy estimates that we will import 66 percent by the year 2010.

What does that do to our national security? I will get into that a little later. Clearly, it is an issue that should be addressed.

Another issue is that of jobs. I have always believed that if anybody in this body could identify a singular more important stimulus than opening up ANWR, I would certainly like to hear from them. That offer is still out there because I haven't heard from them.

To give us some idea specifically of what would be initiated by opening this Coastal Plain, the development scenario can only take place on 2,000 acres. That is what is in the bill. That is what is in H.R. 4.

Let's talk a little bit about the realization that we are likely to get somewhere between 5.6 and 16 billion barrels a day and what it is going to do for jobs. This is a jobs issue.

First of all, the area has to be leased. It is Federal land. There would be a lease proposal. The estimate of the bids that would come in by the major oil companies, such as ExxonMobil, Texaco, or Phillips Petroleum, and others would be somewhere in the area of $3 billion. The taxpayers would obviously see a generation of funds coming from the private sales and going into the general fund.

Let's talk about jobs.

There was a generalization made by Senator LIEBERMAN that the jobs issue is insignificant because more jobs could be created, if you will, by energy conservation. I wish that were true. I wish we could justify that with some statistical information to prove it, because we are talking about continued dependence on imported oil and how we can relieve that. We are not talking about energy as a whole.

There are various studies we have seen over the years. According to the Wharton Econometrics Forecasting Association, ANWR development should produce 735,000 jobs in all 50 States. Why? Because we do not make valves; we don't make insulation. These things are made in various States in the United States.

In a different study, the U.S. Department of Energy estimated ANWR will produce 250,000 full-time jobs in America. Interestingly enough, this study was contracted out to a Massachusetts firm. This is something of which the junior Senator from Massachusetts should take note. Let me repeat—he was here earlier; unfortunately, he is not in the Chamber now—a firm in his own State has estimated at least

250,000 jobs will be produced. I am not sure he is aware of that. And this contract was given to a Massachusetts firm.

Opponents of drilling in ANWR try to downplay these arguments and try to argue the lower numbers. But regardless of whether it is 250,000 or 735,000, either way, it would still be a step in the right direction as far as stimulus to the economy because where else can you find another issue that will employ somewhere between 250,000 and 735,000 jobs and does not cost the taxpayers one red cent. And it keeps the jobs here at home rather than sending our dollars overseas and importing the oil. Every single new job in this country is important, particularly at a time when we have a recession and a downturn.

As a consequence, I think it is important to note that those who know a lot about job creation wholeheartedly support drilling in ANWR. I am talking about the unions, such as the maritime unions, the Teamsters, the seafarers, and various others.

The North Slope oil fields have already significantly contributed more than $300 billion to the U.S. economy.

If we go through some recent announcements, let me tell you the significance of a couple hundred thousand jobs.

On November 29, it was announced 1,409 jobs may be lost. IBM announced 1,000 layoffs.

On November 28, it was announced 850 jobs may be lost. Ames Department Stores announced they will close a distribution center in Ohio, which jeopardized 450 jobs.

I could give you a list of the various announced job cuts.

Alcoa plans to lay off 6,500 employees and close plants.

Chevron announced 550 more job cuts.

Every day we have seen news clips to this effect. So we should be very concerned about stimulating the American economy and generating jobs in the private sector. And this is one of the best ways to do it.

My friend, the Senator from Oregon, is the Presiding Officer. I know the activity associated with Alaska's oilfields has traditionally been important to Oregon, particularly to the shipyards there.

It is estimated by the American Petroleum Institute that 19 new double-hull tankers will be needed if ANWR is opened. All U.S. ships will have to be built at U.S. shipyards and carry the American flag. The analysis predicts that the construction of these tankers will boost the economy of America by producing more jobs in the shipyards. They indicate that the new tankers will be needed solely because the old North Slope tankers are being phased out by 2015 because of the double-hull tanker requirements.

So more American jobs will be created because the Jones Act requires that the oil that is transported within the United States—namely, my State of Alaska down to either Washington or California; but in Portland there is a large shipyard that has accommodated these ships before—must be transported by tankers by U.S.-flagged vessels built in the United States. The analysis correctly assumes that if ANWR passes, it will include an oil export ban. So there will be a provision that this oil cannot be exported. It also assumes that the ANWR oil will be transported by tankers to refineries in Washington, California, and Hawaii. The Oregon area ordinarily does not have the refining capacity.

The American Petroleum Institute estimates this would pump $4 billion almost directly into the U.S. economy and would create 2,000 construction jobs in the U.S. shipbuilding industry and approximately 3,000 other jobs.

The API predicts this would compute to more than ''90,000 job-years,'' by estimating that it will take almost 5,000 employees approximately 17 years to build the ships necessary to transport this oil.

They predict one ship must be built each year for 17 years in order to coincide with the schedule for retiring the existing tankers.

To me, this sounds like stimulus. It sounds like a stimulus for creating jobs in shipyards, many of which have been hurting for some time.

Another issue is the alleged opposition by Gwich'ins. Most of the Gwich'ins, we know, live in Canada. I am aware some of them live in the Arctic village areas, with a population of roughly 117 people. They fear that the caribou that they depend on for subsistence will be decimated. They fear the caribou might take a different migration drive, perhaps further from their village; that it would be harder for them to hunt the 300 to 350 they kill each year.

But, first, there is no evidence that the oil development—with the strict controls proposed to prevent disruption during the June–July calving season of the Arctic Porcupine herd, to reduce noise, and to control surface effects—will harm the herd.

I have a picture in the Chamber that shows some caribou activity in Prudhoe Bay. I will give you a comparison. Experience over the past 26 years in Prudhoe Bay, where the herd has more than tripled in size and where the caribou calves——

The PRESIDING OFFICER. The time of the Senator from Alaska in morning business has expired.

Mr. MURKOWSKI. I request as much time as I need.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Reserving the right to object, as I announced earlier today, we need to complete our business by 1:15 today because of the problem at the Dirksen Building. The majority leader wishes to give a presentation prior to that time. So if the Senator would maybe take another 10 minutes, would that be appropriate?

Mr. MURKOWSKI. We are in morning business, and the limitation of time in morning business is what?

The PRESIDING OFFICER. The limitation is 10 minutes for each Senator in morning business.

Mr. REID. I know you just barely exceeded that.

Mr. MURKOWSKI. We were talking about 15 minutes.

Mr. REID. Yes, we did 15, that is right.

I see Senator BAUCUS, who wishes to give a statement, is in the Chamber.

Mr. MURKOWSKI. I was under the impression we would have plenty of opportunity to discuss this today. Might I inquire when we are coming in Monday?

Mr. REID. We can come in as early as you would like. Two o'clock.

Mr. MURKOWSKI. How about 1 o'clock?

Mr. REID. Would you need more time on Monday than that?

Mr. MURKOWSKI. One o'clock would be agreeable because what you are telling me now is basically that I am out of time for today.

Mr. REID. Yes. Right. I would be happy to talk to the majority leader. I am sure we could work that out.

Mr. MURKOWSKI. I am a little disappointed because I think we are being kind of squeezed on time on this issue.

Mr. REID. I say to my friend from Alaska, if you want to come in earlier than 1 o'clock, I would be happy to talk to him. We are not trying to squeeze out anybody. They are closing the Dirksen Building.

Mr. MURKOWSKI. The Dirksen Building will be closed at 4 o'clock?

Mr. REID. Yes.

Mr. MURKOWSKI. Why don't we come in at noon?

Mr. REID. I will do my best. We will do our best. We have presiders, and all that. We will come in earlier than 2 o'clock, for sure.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that I be allowed to speak for another 10 minutes.

Mr. BAUCUS. Reserving the right to object.

Mr. REID. I think that will be fine. I say to my friend from Alaska, we certainly are not trying to cut off anybody's right. I don't know how much time the Senator has had, but quite a bit. I understand how fervently he feels and how important this is to the State of Alaska, so we want to make sure that you have all the time you need prior to our voting at 5 o'clock on Monday.

The PRESIDING OFFICER. Is there objection to the request?

Mr. MURKOWSKI. My understanding is, they will do their best to try to see that we come in at noon. I thank the Chair and thank the majority whip.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. We have talked a little bit this morning about the ''Serengeti.'' Let me tell you where the ''Serengeti'' of Alaska is. It is another

area where all the lakes are, and it is hardly a ''Serengeti'' because the Coastal Plain is all the same.

But if you look over at the naval petroleum reserve, that is the area with all the lakes with the concentration of birds. It is not within the 1002 area. That is another misleading argument that is continually thrown out.

The other one is that it will take as long as 10 years before ANWR oil is flowing. What they forget is the realization that we already have a good deal of the infrastructure. We have the pipeline. We only need a 70-mile line from the coastal area into the pipeline. And it is suggested once the leases are put up for sale, they will have construction activity in about 18 months.

But more important is the national situation. I am going to close with a reference to that because I think it deserves more of a recognition because of the sensitivity of where we are internationally.

We are importing a little over a million barrels a day from Saddam Hussein. There is no question that there is a great deal of concern as a consequence of the relationship we have had with Saddam Hussein. We fought a war not so long ago. It is kind of interesting to reflect on some of the particulars associated with what happens when we become so dependent. We have heard Saddam Hussein in every speech saying ''death to America.'' He also says ''death to Israel,'' one of our greatest allies over there. Recognizing that he can generate a substantial cash flow by our continued dependence, one wonders why it is in the national interest of our country to allow ourselves to be become so dependent on that source.

I also wish to highlight an article excerpted from the Wall Street Journal of November 28, which kind of sets, unfortunately, the partisan setting this matter is in. I will read from it. It is entitled ''President Daschle.''

One of the more amusing Washington themes of late has been the alleged revival of the Imperial Presidency, with George W. Bush said to be wielding vast, unprecedented powers. Too bad no one seems to have let Senate Majority Leader Tom Daschle in on this secret.

Because from where we sit Mr. Daschle is the politician wielding by far the most Beltway clout, and in spectacularly partisan fashion. The South Dakotan's political strategy is obvious if cynical: He's wrapping his arms tight around a popular President on the war and foreign policy, but on the domestic front he's conducting his own guerrilla war against Mr. Bush, blocking the President's agenda at every turn. And so far he's getting away with it.

Mr. Bush has asked Congress to pass three main items before it adjourns for the year: Trade promotion authority, and energy and economic stimulus bills. Mr. Daschle has so far refused to negotiate on any of them, and on two he won't even allow votes. Instead he is moving ahead with a farm bill the White House opposes, and a railroad retirement bill that is vital to no one but the AFL–CIO.

Just yesterday Mr. Daschle announced that ''I don't know that we'll have the opportunity'' to call up an energy bill until next year. One might think that after September 11 U.S. energy production would be a war priority. In September alone the U.S. imported 1.2 million barrels of oil a day.

This is at a time when we were being terrorized in New York and at the Pentagon.

Furthermore, on the 1.2 million barrels of oil a day we are getting from Iraq, whom we soon may be fighting—imagine that, fighting Iraq and we are talking about not passing an energy bill—the 1.2 million barrels per month is the highest rate of imports since before Saddam Hussein invaded Kuwait.

Continuing from the article:

But Mr. Daschle is blocking a vote precisely because he knows Alaskan oil drilling has the votes to pass; earlier this autumn he pulled the bill from Senator Jeff Bingaman's Energy Committee when he saw it had the votes. So much for the new spirit of Beltway cooperation.

We're not so naive as to think that war will, or should, end partisan disagreement. But what's striking now is that Mr. Daschle is letting his liberal Old Bulls break even the agreements they've already made with the White House. Mr. Bush shook hands weeks ago on an Oval Office education deal with Teddy Kennedy, but now we hear that Mr. Kennedy wants even more spending before he'll sign on. Mr. Daschle is letting Ted have his way.

The same goes for the $686 billion annual spending limit that Democrats struck with Mr. Bush after September 11.

I will not refer to the rest of the article, but it simply says that what we are seeing here is a conscious effort by the majority not to allow us to have a clean up-or-down vote on the issue.

As we wind up today's debate, I encourage my colleagues to think a little bit about their obligation on these votes. Is it their obligation to respond to the extreme environmental community that has lobbied this so hard, that regards this as an issue to milk with all the authorities, somewhat like a cash cow, and are going to continue to use it? This bill covers reducing the demand, increasing the supply, and it enhances infrastructure and energy security.

I ask unanimous consent that the article in the Wall Street Journal of November 28 be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PRESIDENT DASCHLE

One of the more amusing Washington themes of late has been the alleged revival of the Imperial Presidency, with George W. Bush said to be wielding vast, unprecedented powers. Too bad no one seems to have let Senate Majority Leader Tom Daschle in on this secret.

Because from where we sit Mr. Daschle is the politician wielding by far the most Beltway clout, and in spectacularly partisan fashion. The South Dakotan's political strategy is obvious if cynical: He's wrapping his arms tight around a popular President on the war and foreign policy, but on the domestic front he's conducting his own guerrilla war against Mr. Bush, blocking the President's agenda at every turn. And so far he's getting away with it.

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Just yesterday Mr. Daschle announced that ''I don't know that we'll have the opportunity'' to call up an energy bill until next year. One might think that after September 11 U.S. energy production would be a war priority. In September alone the U.S. imported 1.2 million barrels of oil a day from Iraq, which we soon may be fighting, the highest rate since just before Saddam Hussein invaded Kuwait in 1990.

But Mr. Daschle is blocking a vote precisely because he knows Alaskan oil drilling has the votes to pass; earlier this autumn he pulled the bill from Senator Jeff Bingaman's Energy Committee when he saw it had the votes. So much for the new spirit of Beltway cooperation.

We're not so naive as to think that war will, or should, end partisan disagreement. But what's striking now is that Mr. Daschle is letting his liberal Old Bulls break even the agreements they've already made with the White House. Mr. Bush shook hands weeks ago on an Oval Office education deal with Teddy Kennedy, but now we hear that Mr. Kennedy wants even more spending before he'll sign on. Mr. Daschle is letting Ted have his way.

The same goes for the $686 billion annual spending limit that Democrats struck with Mr. Bush after September 11. That's a 7% increase from a year earlier (since padded by a $40 billion bipartisan addition), and Democrats made a public fanfare that Mr. Bush had endorsed this for fear some Republicans might use it against them in next year's elections. But now Mr. Daschle is using the issue against Mr. Bush, refusing to even discuss an economic stimulus bill unless West Virginia Democrat Bob Byrd gets his demand for another $15 billion in domestic spending.

Mr. Byrd, a former majority leader who thinks of Mr. Daschle as his junior partner, may even attach his wish list to the Defense spending bill. That would force Mr. Bush to either veto and forfeit much needed money for defense, or sign it and swallow Mr. Byrd's megapork for Amtrak and Alaskan airport subsidies.

All of this adds to the suspicion that Mr. Daschle is only too happy to see no stimulus bill at all. He knows the party holding the White House usually gets most of the blame for a bad economy, so his Democrats can pad their Senate majority next year by blaming Republicans. This is the same strategy that former Democratic leader George Mitchell pursued in blocking a tax cut during the early 1990s and then blaming George H.W. Bush for the recession. Mr. Mitchell's consigliere at the time? Tom Daschle.

It is certainly true that Republicans have often helped Mr. Daschle's guerrilla campaign. Alaska's Ted Stevens is Bob Byrd's bosom spending buddy; he's pounded White House budget director Mitch Daniels for daring to speak the truth about his pork. And GOP leader Trent Lott contributed to the airline-security rout by letting his Members run for cover.

The issue now is whether Mr. Bush will continue to let himself get pushed around. Mr. Daschle is behaving badly because he's assumed the President won't challenge him for fear of losing bipartisan support on the war. But this makes no political sense: As long as Mr. Bush's war management is popular, Mr. Daschle isn't about to challenge him on foreign affairs.

The greater risk to Mr. Bush's popularity and success isn't from clashing with the

Daschle Democrats over tax cuts or oil drilling. It's from giving the impression that on everything but the war, Tom Daschle might as well be President.

Mr. MURKOWSKI. I ask unanimous consent that a summary of the bill, which is H.R. 4, be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY—H.R. 4, THE SECURING AMERICA'S FUTURE ENERGY ACT OF 2001

H.R. 4 is the legislative portion of the president's comprehensive energy policy. It aims to secure America's energy future with a new national energy strategy that reduces energy demand, increases energy supply, and enhances our energy infrastructure and energy security.

REDUCED DEMAND

Reauthorizes federal energy conservation programs and directs the federal government to take leadership in energy conservation with new energy savings goals.

Expands Federal Energy Savings Performance Contracting authority.

Increases Low Income Home Energy Assistance Program (LIHEAP), Weatherization and State Energy Program authorization levels to meet needs of low-income Americans.

Expands the EPA/DOE Energy Star program and directs the EPA and DOE to determine whether Energy Star label should extend to additional products.

Directs DOE to set standards for appliance ''standby mode'' energy use.

Reduces light truck fuel consumption by 5 billion gallons over six years.

Improves Federal fleet fuel economy, expands use of hybrid vehicles.

Increases funding for DOE's energy conservation and energy efficiency R&D programs.

Expands HUD programs to promote energy efficient single and multi-family housing.

INCREASED SUPPLY

Provides for environmentally-sensitive oil and gas exploration on Arctic Coastal Plain.

Authorizes new oil and gas R&D for unconventional and ultra-deepwater production.

Royalty relief incentives for deepwater leases in the central and western gulf of Mexico.

Streamlines administration of oil and gas leases on Federal lands.

Authorizes DOE to develop accelerated Clean Coal Power Initiative.

Establishes alternative fuel vehicle and Green School Bus demonstration programs.

Reduces royalty rate for development of geothermal energy and expedites leasing.

Provides for regular assessment of renewable energy resources and impediments to use.

Streamlines licensing process for hydroelectric dams and encourages increased output.

Provides new authorization for fossil, nuclear, hydrogen, biomass, and renewable R&D.

ENHANCED INFRASTRUCTURE ENERGY SECURITY

Sets goals for reduction of U.S. dependence on foreign oil and Iraqi oil imports.

Initiates review of existing rights-of-ways and federal lands for energy potential.

Directs DOE to implement R&D and demonstrate use of distributed energy resources.

Invests in new transmission infrastructure R&D program to ensure reliable electricity.

Requires study of boutique fuel issues to minimize refinery bottlenecks, supply shortages.

Initiates study of potential for renewable transportation fuels to displace oil imports.

Offers scholarships to train the next generation of energy workers.

Prohibits pipelines from being placed on national register of historic places.

Mr. MURKOWSKI. Finally, I hope as Members reflect on their responsibility, they recognize that we are at war. This war may expand and extend itself. The continued exposure based on our dependence on imported oil and the likelihood that the flow of oil imports might be disrupted mandates that we have an energy policy and that we have it done in a timely manner. Let's recognize the obligation that we have in voting on this. Is it a vote to respond to the demands of America's environmental community, or is it a vote to do what is right for America?

We have already lost two sailors as a consequence of our dependence on oil from Iraq. I don't want to stand before this body and say I told you so, but if we don't pass an energy bill that will reduce our dependence on Iraqi oil, we are doing our country a grave injustice. It is contrary to the majority of public opinion in this country. Seventy-six percent of public say we should be taking up and passing an energy bill over any other bill. That includes the farm bill and the Railroad Retirement Act. If we ever get to the stimulus, I hope somebody would search their minds and memories to see if they can come up with a better stimulus than the proposal associated withholding up ANWR.

I am somewhat disappointed we were not able to have more time today. Hopefully, the leadership can work out coming in at noon on Monday.

I thank the Chair for its courtesy. I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

GUN SHOW BACKGROUND CHECK ACT

Mr. BAUCUS. Mr. President, I rise to comment on the words spoken earlier this morning by my very good friend and colleague from Rhode Island, Senator REED. Earlier this morning, Senator REED announced his intention to bring S. 767, the Gun Show Background Check Act, to the Senate floor this year.

At the outset, I deeply respect the Senator from Rhode Island. I think he is a very fine public servant, one of the brightest and most dedicated with whom I have had the privilege to serve. I respect his concerns about guns generally and guns in America. I do not believe, as he stated, that instituting background checks at gun shows will correct the concerns he raised. The events of September 11 and the ensuing concerns about terrorist threats have led to a resurgence by some for stricter gun laws. But with all due respect, responding to terrorism by calling for background checks at gun shows is not an effective tool for making this country safer.

The hijackers of September 11 were not armed with guns. The tragic deaths of thousands in New York didn't involve a single bullet. The anthrax that arrived in the office of my next door neighbor, Majority Leader DASCHLE, had nothing to do with background checks. The acts of the terrorism on America to date have not been related to guns in any form.

I am not trying to deny the risks and dangers that we face from weapons in the hands of terrorists. But I do not believe that terrorist organizations are buying their weapons one pistol at a time from American gun shows, nor do I believe that closing the so-called gun show loophole will result in fewer guns in criminal hands.

I strongly support the actions our law officials have taken to make our country a more secure place since September 11. And I thank them for their dedication and hard work. They have worked so hard and in many cases overtime, extra hours, no vacation. It is amazing and inspiring. But while we tighten our borders and patrol our country, we must remember the balance between protecting our safety and protecting our civil rights.

Restricting our citizen's access to firearms chips away rights protected by the Constitution. Cloaked in the mantle of eliminating terrorism, bills such as ''The Gun Show Background Check'' restrict the second amendment and make it more difficult for law abiding citizens to purchase guns.

My State of Montana has a heritage based on hunting and enjoying the great outdoors. Gun shows are events typically held in town meeting halls on weekends. They are very well attended. They are big events. You would be astounded at all the people there going to and fro and talking and exchanging information. People come together and meet neighbors and possibly purchase a rifle to be used on a hunting trip. In addition, gun shows simply are not set up with the technology to make background checks feasible. They are temporary events, and they are not able to be connected to the NICS system for background checks. It is technically impossible.

I appreciate deeply my colleague's concerns, but I do not believe that gun show checks begin to address terrorism or gun violence. We have safeguards in place to keep guns from falling into the wrong hands and focusing on guns when talking about terrorism is missing the bigger picture.

Let's move on to getting an economic recovery bill passed to boost our economy and prove to the terrorists that their actions cannot stop America's progress. Let's get our aviation security bill implemented so our citizens can get back up in the air with complete confidence. Right now, it is the big picture on which we must focus. Gun shows aren't part of the problem, and background checks at the gun shows are not part of the solution.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CORZINE). Without objection, it is so ordered.

WORLD AIDS DAY

Mr. DASCHLE. Mr. President, every December first since 1988, World AIDS Day has been a day dedicated to sending messages of compassion, hope, solidarity, and understanding.

Commemorating this day is a small but important gesture, and it is the least we can do in the face of the worst pandemic mankind has ever known. Yesterday, UNAIDS and the World Health Organization released a joint report that illustrates the enormity of the AIDS pandemic. The numbers are so staggering that they are almost incomprehensible. There are now 40 million people living with AIDS. Two point seven million of them are children. In the past year, there have been 5 million new HIV infections and 3 million AIDS deaths.

Many countries are seeing their future—embodied in their young people—ravaged by this disease. People under the age of 25 represent half of all new HIV infection cases, and there are now 10 million people between the ages of 15 and 24 living with HIV/AIDS. Every minute, five more young people are infected with HIV. As I have argued before, this is not just a humanitarian issue, it is also an economic and national security issue.

The International Labor Organization reports that by 2020, AIDS will reduce national workforces so much that countries with the highest rates of prevalence will see their GDPs drop by as much as 20 percent in the next 20 years. How can companies in these nations afford the increased costs for insurance, benefits, training, and illness in his environment?

The Food and Agriculture Organization reports that 7 million farm workers have died from AIDS-related causes since 1985, and 16 million more are expected to die in the next 20 years. How can these countries maintain—let alone increase—agricultural output under these circumstances?

The United Nations reports that in 1999, 860,000 students in sub-Saharan Africa lost their teachers to AIDS. How can countries educate their children with these losses? These numbers are a disturbing snapshot of the epidemic today. Tragically, they may only be the tip of the iceberg.

Experts tell us that the epidemic in many parts of the world is still in its early stages. Globally, most people infected are unaware they carry the virus. Many millions more know nothing about HIV and how to protect themselves against it. If we are ever to staunch the AIDS epidemic, we must continue—and increase—our efforts at prevention.

Since the 1980s, the United States has found prevention efforts such as school-based education, perinatal prevention programs, and screening the blood supply, to prove effective. As a member of the family of nations, we have to do a better job of promoting and supporting international prevention and education programs. We were able to take a positive step in the foreign operations appropriations bill, where the Senate added significant funds to invest in prevention programs around the globe.

I am hopeful the final bill will include those funds, but prevention and treatment must go hand in hand, because without treatment options, at-risk individuals have no incentive to submit to testing or to practice prevention. We have taken some positive steps in treating HIV/AIDS, but much more needs to be done. We have worked hard to invest $300 million for the U.N. Global Trust Fund on AIDS, TB, and Malaria. While it is not nearly enough for this challenge, it is a significant first step.

As that fund is developed, we have to make sure that its resources are dedicated to fighting this disease on all fronts—including treatment. While there is pressure to limit the focus of the fund to prevention alone, that would be a mistake—and it would limit our ability to develop a comprehensive agenda to confront this pandemic.

The theme designated for this year's World AIDS Day is simply: ''I care. Do you?'' While our words today are important, it is our action every day—on all fronts, in all nations—that are the true measure of our caring. On this day, let us recommit ourselves to fighting, and ultimately defeating, this scourge.

The PRESIDING OFFICER. The Senator from New Mexico.

ORDER OF PROCEDURE

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be permitted to speak for 4 minutes as in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, I say to my two friends I have certainly no problem with the Senator from New Mexico speaking for 4 minutes, and I understand my friend from Oklahoma wants to speak for 10. When we came in this morning, we made an announcement we would try to wrap up by 1:15 p.m. today. We would have tried to do it sooner, but with the cloture petitions pending Senators had until 1 p.m. today to file their amendments. We wanted to really wrap this up. The Dirksen Building is going to be closed off. In fact, the process is beginning now. By 4 p.m., it will be wrapped up.

I have a few things to do when the two Senators complete their statements, and then we will close the Senate. We did not ask for a unanimous consent this morning, thinking something such as this might happen, but we appreciate the cooperation and look forward to the statements of the two Senators.

I ask unanimous consent that the Senator from New Mexico be recognized for 5 minutes, the Senator from Oklahoma for 12 minutes, and that I be recognized to close the Senate following those statements.

The PRESIDING OFFICER. Without objection, it is so ordered.

STIMULATING THE ECONOMY

Mr. DOMENICI. Mr. President, first I say to the occupant of the chair, the junior Senator from New Jersey, when he came to the Senate he brought with him a rather distinguished career in investment banking, as I understand it, with a specialization in bonds. Whatever the case may be, he brought with him a tremendous expertise with reference to the American economy. Therefore, it makes me doubly proud that the idea many people suggested to me, that ends up being called a Social Security withholding tax holiday for 1 month, is supported by the occupant of the chair, because I give a lot of credit to somebody who comes to the Senate from the business world, talks with the business world, talks with labor union people and comes up with an analysis of what will, indeed, be the best economic stimulus of those that have been presented that could be adopted before Christmas and be effective, regardless of the arguments, during the next 4 to 5 months. It clearly could be in full effect.

First, those who have supported me from the standpoint of business are in pretty good company. So whatever we hear from some, that this cannot be implemented and that maybe it is not a good idea, let me introduce a letter which I received on November 30. It is a very current letter. It is from the Business Roundtable. Now, the Business Roundtable has a lot of American business members. This letter comes from the president, John Castellani—good Italian American name. We had not spoken in advance of my amendment, but this letter, so everybody will know, is an unequivocal enforcement of the holiday as being the best economic stimulus and the best news to provide confidence in the American people and that will move the economy ahead in terms of what it needs to give it a jump start in these very difficult times.

We all know we ought to do two big things. One, we ought to pay for all the military needs of our country in a very good appropriations bill. The President has told us what he needs. We need to do that. I understand it will be done next week. That is good.

The other thing we have to do is pass a stimulus package. We do not have to pass a package that has a ''stimulus'' label on it. We have to pass one that could be sent out to the business community, to the others who know what is happening in the American marketplace, and ask them, will this actually

stimulate the economy? Then we could say ''stimulus,'' and those who know say it will stimulate. It is not a bill to meet a commitment.

This letter ends up saying, because there are some who say it will take too long, I say to the occupant of the chair, to implement, that some express concern about the ability of companies as a practical matter to implement this on short notice. We have surveyed our companies to see how quickly the payroll reduction could be implemented. These companies, some of the Nation's largest employers, have said it would be implemented in a range of a couple of days to a maximum of 3 weeks if it is kept simple. We have some leeway as to how to implement that holiday.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE BUSINESS ROUNDTABLE,
Washington, DC, November 30, 2001.

Hon. PETE V. DOMENICI,
Ranking Member, Senate Budget Committee, U.S. Senate, Washington, DC.

DEAR SENATOR DOMENICI: The Business Roundtable believes that an economic stimulus is needed, and needed now. Moreover, we believe the stimulus should focus on enhancing consumer confidence and spending; that broad-based and significant incentives are needed to spur business demand; and both should be of a size and duration to change spending behavior in the near term.

To that end, the members of The Business Roundtable believe two measures would work quickly and effectively to improve cash flow and stimulate demand and productivity. First, we recommend an immediate reduction in the payroll tax. This action, more than any other proposal, will put money into the hands of those who need it and will spend it. A payroll tax reduction diversifies the stimulus on both the demand and supply sides. It also focuses assistance on lower-income individuals. Reducing both the employee and employer portions will reduce pressure on labor costs, and give both employers and employees more cash as soon as the next payday, thus relieving financial pressures on both. Your proposal for a withholding tax ''holiday'' certainly meets these criteria.

We continue to believe that enhancing business demand is essential for achieving a quick recovery. Again, the business incentives should be broad-based and of such a magnitude that they change business behavior by accelerating spending that is now being deferred. We also believe that any business stimulus must deal with existing tax provisions, such as Alternative Minimum Tax, which would act to negate the impact of the stimulus.

We also understand there has been some concern expressed about the ability of companies, as a practical matter, to implement a payroll tax reduction on short notice. We have surveyed our companies to see how quickly a payroll tax reduction can be implemented. These companies, some of the nation's largest employers, have said it could be implemented in a range of a couple of days to a maximum of three weeks if it is kept simple, and we have some leeway how to implement the tax holiday.

If we can provide further information, please do not hesitate to contact me.

Sincerely,

JOHN J. CASTELLANI.

Mr. DOMENICI. I hope those talking will at least put this letter among the things they consider in terms of the reality of the impact on the American consumer, the American buyer and seller, the American worker, and the American employer. This says an awful lot about many employed people. I don't know how many million American employees are represented by this group, but it is an awful lot.

Having said that, I understand there is some concern about the Social Security recipients of our country. Nobody will disagree the best thing for the Social Security trust fund and the best thing for you, Social Security recipients of the future, is for this economy to get going sooner rather than later. If we had a little time, we could debate and show graphs about what will happen to Social Security if this American economy stays in the tank for another year or for 2 years and what will happen if it comes out in 6 months. If we can get it out quick and get it growing, every Social Security recipient of today and those planning on it in the future will know the best thing we can do is pass the stimulus package. That will start the economy. There is no harm to the Social Security trust fund.

We are already using it because we are in the red. All we are saying is, as soon as we take it out, we replenish it, day by day, hour by hour, and nothing can happen to the fund. If you want to talk about protecting it, that is all well and good, but the reality is the best way to protect it is to do it and pass this stimulus. That will help the Social Security recipients the most.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

RAILROAD RETIREMENT

Mr. NICKLES. Mr. President, I congratulate and compliment my friend and colleague, Senator DOMENICI, for his statement and also for his leadership and his innovation. He has come up with an idea to help stimulate the economy that is far superior than some of the proposals being discussed, one of which is to give $300 per individual or $600 per family if they did not get a check last year.

Last year, we gave checks to people who paid taxes. Some people were saying, ''Give money to people that did not pay taxes,'' notwithstanding the fact they were eligible for the earned-income tax credit, which, in many cases, was worth 3 or 4 times whatever payroll taxes they might have paid. The position of the Senator from New Mexico is far superior.

I happen to be one concerned about deficits and I am concerned about runaway spending. I contacted some individuals and said, we have agreed to 13.3 percent spending growth for next year, but many others say that is not near enough; we need to do more. So I will state a few facts.

Last year's spending—the spending we completed in September of 2001, total discretionary spending, the spending we control by appropriations, that fluctuates, whatever we appropriate—was $640 billion, 9.6 percent more than the previous year, which was at $584 billion.

The President's budget for 2002, which we have just started for the fiscal year, was to grow at 6.1 percent. He agreed in a bipartisan agreement to throw in a few billion more for education, and there was an agreement with the appropriators to increase that figure to $686 billion. That calls for a growth rate of 7.1 percent. That was agreed to in October. Some of our colleagues almost insulted the President, saying they wanted it in writing. The President gave it in writing, in a letter in October, that all the appropriated accounts would be at $686 billion, a growth rate of 7.1 percent.

With the tragedy of September the 11th, the President agreed we had a bipartisan agreement to increase that level. Originally, it was $20 billion, and at the last day that was doubled, from $20 billion to $40 billion, due to requests in New York, New Jersey, and other places. There is, again, bipartisan agreement that was adopted unanimously in the Senate.

Adding the $40 billion on top of the $686 billion, it is $726 billion, an increase of 13.3 percent. That is where we are now. That is a lot. It is several times the rate of growth of inflation. But the $40 billion is extraordinary, so maybe we should not count that, but we have a lot of other things happening. We still need budgets. Senator DOMENICI, former chairman of the Budget Committee, used to hammer on fiscal discipline, and we are acting as if fiscal discipline does not matter.

A few other things have happened. We have passed an airline assistance or the airline bailout bill. The cost of that, most people believe, is $15 billion. It is not really. There was a $5 billion cash outlay and $10 billion in loan guarantees. Hopefully, the $10 billion in loan guarantees will not cost that much; it will be significant cost.

We have also passed a victim's compensation fund. I know the occupant of the care has to be familiar with this because he has constituents involved. There is a lot of liability dealing with the victim's compensation funds. We passed that as part of the airline bill. I opposed it because I didn't think we had enough time to consider how to compensate victims from the September 11 disaster. A lot of people were killed and a lot of people injured. How do we compensate them? We created a special master. The President appointed a special master. I compliment him. The special master has one of the toughest jobs anywhere. I compliment him. He is doing it pro bono. It is a big challenge. He will try to meet deadlines, in months, to come up with a fair and equitable compensation system for victims. It could cost the Government billions of dollars. No one has a clue how much that will cost. That is already the law of the land.

We don't know how much the insurance companies are going to pay. Hopefully, most of the money comes from insurance proceeds. Again, that is out there. It is a liability. And there are other items. Many that we are considering will be resolved in the next couple of weeks. One is the railroad retirement bill, with an outlay of $15 billion. We will write a check.

I am embarrassed for the House, saying this doesn't count, this check we will write does not count; we will not score it. I can't remember ever doing that, certainly not to the tune of billions of dollars. It is shameful and disgraceful, and it should not happen. I will work to see it does not happen. I predict I will be successful.

If it passes, we might as well throw away the budget. If we are going to put in language, ''this doesn't count toward the budget; ignore it; don't count it or score it,'' then why have a budget? There is no sense whatever. The cost of that bill is $15 billion.

Also, when Senator DOMENICI was speaking, he came up with an idea for a payroll tax holiday. His idea was not written by lobbyists. The railroad retirement bill was not written by Congressmen or Senators. I cannot remember in my 21 years in the Senate ever having a bill totally written by special interest groups that cost billions of dollars that nobody even touched. Nobody had a hearing. There was no hearing in the House or in the Senate.

I have been working on pensions for a long time in my own company, and when I was in the State senate, I was on the retirement committee. My first trip to Washington, DC, was on ERISA, Employee Retirement and Income Security Act. I know a bit about pensions. Nobody is looking at it. I will look at it a lot more since we will be on that next week.

My point today is some are willing to commit another $15 billion. All of this adds to the deficit, all of this adds to the publicly held debt. Some people have suggested there is no cost involved. We are moving from government to government debt, or government IOU in a fund that does not cost us an outlay, real outlay. Now we are moving it to publicly held debt where the Federal Government will have to write a check, where taxpayers have to pay $1 billion in interest expense for the $10 billion.

That is not the only spending program we have going. We would have the stimulus package. Senator BAUCUS had a bill from the Finance Committee. There was over $2 in spending for every $1 of tax cuts. I will have this printed in the RECORD so people can see it.

There were tax cuts of $19.4 billion, but the rest of it is spending—maybe using, in some cases, the Tax Code, like supplemental rebate checks. We would give people checks even if they did not pay taxes. How can you call that a tax cut? That is a check. We are writing checks. It doesn't have anything to do with cutting taxes.

There is expansion of unemployment benefits, which I am sure we will probably agree to a significant expansion of unemployment benefits, probably a 50-percent expansion in time eligibility, going from 26 weeks to an additional 13 weeks. I expect that will be agreed upon.

Most of this is $66.8 billion, with the compensation of $19 billion; the rest of it is spending. There is over $2 in spending for every dollar in tax decrease. So I am adding that spending under the spending we have already had. If that were included, and hopefully most will not be, we have a lot of spending in that capacity.

We have the farm bill. If our colleagues have not looked at the farm bill—and I heard there may be a motion to move to the farm bill before too long—I hope they will look at it. I am from a farm State. I am embarrassed for the farm bill that came out of the Agriculture Committee. I am embarrassed for it. I was embarrassed when we had the stimulus package and I noticed there were several billion dollars for agriculture for subsidies for bison and cranberries and items that we never had in an agricultural program, and now we are looking at the farm bill and talking about subsidies in the billions of dollars. We are talking about raising the price of milk 26 cents a gallon for everybody in America.

This farm bill goes the wrong way and it spends a whole lot of money. I don't know if people are trying to harvest the Government or what, but the net result of that farm bill is people are going to make more money from the Government than they will ever make from agriculture. The sad point is 10 percent of the farmers are going to get over half the benefit. We are going to have to discuss that for a while. We are going to have to change it. The Senate is the place to change it. I don't care if we do it this year or do it next year—that is the majority leader's call—but we are going to spend a little time on that bill. It needs to be improved. It costs a lot of money and that is the essence of my comments today.

Who writes the budget? Where is the Budget Committee chairman? Where is the fiscal discipline? We are now in the red. Granted, we had bipartisan agreement to go to increases of spending to 7.1 percent. Then we all agreed, let's have another $40 billion to deal with the disaster. But there are lots of other proposals. I didn't mention Senator BYRD had another proposal for another $15 billion for homeland security. I think a lot of that can be financed out of the $20 billion. We have not even finished spending the second $20 billion of the $40 billion that is now added to the Department of Defense bill. We have not finished that. Yet some say we have to add $15 billion on top of it.

If I look at the spending package submitted by Senator BAUCUS, I am looking at spending that is close to $50 billion. Since they add Senator BYRD's package to it—or at one time it was over, it was $60 billion in spending and $19 billion in tax cuts.

Then we have the farm bill, and I see the farm bill will cost billions and billions of dollars. I think that is grossly irresponsible. I am looking at the farmers in my State. How much are they making? I have farmers in my State making millions of dollars a year from taxpayers. These are millionaires in the first place. I love them, but I don't think we should have to be writing them a check—just as I don't think we have to write major investment companies a $4,800 tax credit for every employee they employ in New York City. I want to help New York City, but what are we doing giving them almost a $5,000 tax credit? If they have 100 employees, we are going to give them a $500,000 tax credit? For what? Let's help people who need help.

I think it is running away. I think spending has gotten out of hand. I think we are going to have to draw the line. I think we are going to have to show some fiscal discipline. We have not been showing it lately.

President Bush has actually drawn the line and said: I am going to stay with this amount. He said: I will come back to Congress and work with Governor Ridge and make additional submissions when we really know exactly what we need and we will do that next year. He has the votes to support him in the Senate. I hope we do not say we will try to run over him and come up with a higher amount and defy him to veto it. He said he will veto it. We have the votes to sustain the veto so let's not waste our time. Let's act together, start acting as if we have a budget and not pass bills that say this $15 billion doesn't count. That would be the height of fiscal irresponsibility.

I urge my colleagues, let's start showing a little fiscal discipline. Let's start totaling up what we have done so far on the spending side and make sure we do not build ourselves into such a fiscal posture that the new base of spending is such we will never be able to climb back into a surplus.

I notice my friend and colleague from Nevada is here. Let me conclude with a couple of requests.

CONFIRMATIONS

I have had the pleasure of working with the Senator from Nevada for 20-some years. I think the world of him. He and I are both engaged in trying to help people get confirmed. I urge my colleague, in every way I possibly can, to help us confirm Gene Scalia. Gene Scalia, who happens to be the son of Justice Scalia, was nominated by President Bush in April to be Solicitor for the Department of Labor—Secretary Chao's Department of Labor. Secretary Chao talked to me. She needs Gene Scalia. She needs a Solicitor. That is one of the most important positions in any agency and certainly in the Department of Labor. She needs Gene Scalia. She asked me numerous times: Please, will you confirm Gene

Scalia. I told her I would do everything I could.

There are two other nominees I urge my colleague to assist us with, two nominees for the court of appeals. One is Miguel Estrada, a Honduran native, Hispanic. When he came to the United States he couldn't even speak English and graduated in the top of his class at Harvard. He is an outstanding individual. We have letters of support on Miguel Estrada from everybody, prominent Democrats and others who say he will be an outstanding jurist.

One other individual is John Roberts, Jr., who is also nominated to the Circuit Court of the District of Columbia. He argued, I think, 30-some-odd cases before the Supreme Court. He is an outstanding individual. Both of these individuals were nominated by President Bush in May and they have not even had a hearing.

We have a lot of vacancies in the circuit court. The circuit courts are extremely important. These two individuals are extremely qualified. I do not know that you could find two more qualified individuals anywhere in the country than Miguel Estrada and John Roberts, Jr. So I urge my friend from Nevada and the majority leader, and Senator LEAHY, give us hearings on these two individuals. I can assure you if they have hearings they will have overwhelming votes in both the committee and the Senate. They will be confirmed overwhelmingly. I feel more than confident that will be the case.

I also urge my colleague to give us a vote. Gene Scalia is on the calendar. Give us a vote on Gene Scalia as Solicitor for the Department of Labor.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, my feelings are just as strong. My affection for the Senator from Oklahoma is just as strong as he has expressed regarding me. I have not heard of John Roberts. I have heard of Miguel Estrada. From all I know about both of them, they are fine individuals. I see no reason they should not be sitting on the DC Court of Appeals. But that is the extent of my knowledge. I will do what I can to make sure there are hearings scheduled.

As I said to my friend on a number of occasions, people deserve hearings. We are going to do everything we can to live up to what Senator DASCHLE and I have said. Senator LEAHY reported nine out yesterday, including one circuit court judge. We expect to have votes on those shortly. He is going to have hearings again next week. It is my understanding—I do not know if there is going to be hearings but he said he would report out at least four or five more. So that is 13 or 14 judges we would have.

I was talked to yesterday about Sansonetti; the Judiciary Committee did report him out yesterday. There has been some controversy over that. I see no reason, now that he has been reported out, that we cannot move forward.

I don't know Mr. Scalia. I never met him. I am only speaking for myself, and certainly not Senator DASCHLE, nor the rest of the Senators. I think the situation with Mr. Scalia may be a little more difficult. A number of Members have spoken to me. No one questions his integrity or his credentials, that I know of, or that he is a competent lawyer. I think the question is whether this is the right place for him. If he were chosen to be the solicitor of any department other than the Department of Labor, I think his nomination would fly through. But because of very strong anti-labor comments he made, a number of Members on my side have come to me to express some real concerns.

Being as candid as I can with my friend, I think that may be a little more difficult but something on which we can work.

Mr. NICKLES. If the Senator will yield further, Gene Scalia was reported out of the Labor Committee on October 17. He has been on the calendar. I urge that we have a vote. There is not an anti-labor bone in his body. If anybody questions that, I urge them to talk to him. Some people are trying to hold up his nomination because he had some questions about ergonomics. The Senator from Nevada, I know, had serious questions about ergonomics. In their proposed regulations, the Clinton administration tried to almost legislate a Federal workers compensation system without going through Congress.

Again, I think Gene Scalia is an outstanding nominee. I think the Secretary of Labor is entitled to a solicitor, and he is certainly entitled to a vote to find out where the votes are. I urge my colleagues to help us make that happen, to give him a vote and a day in the Senate, and not keep him in limbo indefinitely.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in May 1996 in Philadelphia, PA. Stephen Leo Jr., 19, and Kevin Zawojski, 17, yelled anti-gay slurs and beat a man they believed to be gay. Mr. Leo was sentenced to 18 to 36 months in jail and Mr. Zawojski was sentenced to 29 to 58 months in jail in connection with the incident.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

ADDITIONAL STATEMENTS

RECOGNITION OF THE OUTSTANDING ACCOMPLISHMENT OF CUBA, MISSOURI

• Mr. BOND. Mr. President, I wish to make a few comments on the outstanding accomplishment of Cuba, Missouri on becoming the official Route 66 Mural City as declared by the Missouri State House of Representatives.

Cuba, Missouri is located along Interstate 44 and highway 19 near the Meramec River State Park and the Huzzah river in Crawford County. Also, located near by is the beautiful Mark Twain National Forrest offering a great deal of hunting, fishing and water recreation. Cuba is a beautiful city and has much to offer its citizens and those who visit.

Located along the historic Route 66 and established in 1857, Cuba has witnessed and been a part of many historical events. Through local artisans, Cuba, MO has taken the incitive to remind its citizens and those who visit of its storied past through three murals on local buildings. The three murals currently displayed on the buildings depict the early history of the town, and present us with a reminder of its beautiful apple orchards, the six residents who lost their lives defending this great nation during World War Two, and the original Peoples Bank building. These murals also are a reminder of the history that not only shaped Cuba, but our great state as well. Although the population of Cuba is only about 3,200 people, the city continues to grow and prosper. I commend them on taking the incitive to remember our history and educate those who visit this great city by this beautiful display of art work.

There are plans to finish ten murals along historic Route 66 by the year 2007. Cuba was the first community to take the initiative to paint these murals and now serves as the center for development for these murals, including obtaining a trademark on Route 66 Murals. Again, I congratulate them on such a wonderful project.•

GOD BLESS AMERICA

• Mr. FEINGOLD. Mr. President, the Wisconsin State Council of Vietnam Veterans of America, part of the congressionally chartered Vietnam Veterans of America, have been steadfast

advocates for Wisconsin's veterans and their families. They have asked me to have printed in the RECORD the following editorial from The Badger Veteran, the newsmagazine that they produce.

The editorial follows.

MAY GOD BLESS AMERICA

The men and women of the Wisconsin State Council of Vietnam Veterans of America understand all too well the horrors of war. Until September 11th, our nation was blessed to have 136 years without a life being lost on America's mainland to war. Our sense—our collective illusion—of invulnerability was shattered forever by acts of terror in New York, Washington and Pennsylvania on the 11th of September.

Our national security must never again be treated as an afterthought. It must not be placed on hold in the name of inconvenience not compromised because it might have some limited impact on the bottom line of our country's economy.

A generation ago, we sent millions of Americans to fight a protracted war in Southeast Asia. The vast majority of Americans had the luxury of turning out that war simply by tuning off their TVs whenever they grew tired of it or found it too depressing. It is a luxury no American will ever have in our war against terrorism.

Today, America has once again been drawn into a war—one not of our making. It will be protracted. It will be very costly—in dollars and, tragically, as in any war, in more lives, including more American lives. As veterans, we understand there is nothing fair or good about any war. And we know Americans will no doubt find themselves debating the conduct of this war in the halls of Congress and in homes and byways throughout our nation. There is nothing wrong with free and open debate. It is the American way. But Americans are also an impatient people who like quick resolution of events that disrupt their lives. This war promises no quick fixes. It will take more time than we will have patience. But patience is something for which Americans must collectively and continually search our very beings as the frustrations of a protracted war begin to take their toll on our resolve. And patience will have to be found time and again if we are to prevail.

We urge the people of Wisconsin and the United States to stay the course until we cripple the world's terrorist networks. We urge President Bush and our national leaders to be mindful of the lessons of the Vietnam War, the Soviet-Afghanistan War and the Powell Doctrine with respect to committing U.S. ground troops to foreign battlefields. And we ask and expect that criticisms of this war and its policies will be directed at our government and our leadership who are responsible for the policies and never again at the men and women our government sends into harm's way on behalf of our nation.

This is also a time for remembering, for coming together. A time to heal while being vigilant. A time to remind our foes that when threatened or attacked, we will respond with a ferocity that they shall regret unleashing. As President Bush stated, we are a good, peace loving nation. Our enemies proceed at their peril whenever they infer from our nature that we will turn the other cheek when attacked.

This will also be a time for the vast majority of Americans—especially young Americans—to learn about the importance of some ''old fashioned'' values that have lost relevance to too many for too long. Values like duty, honor and country, with an increased appreciation for a simple, compelling fact: Despite all of America's flaws and shortcomings, we have the privilege of living in the greatest nation on earth.

On behalf of the members of Vietnam Veterans of America in Wisconsin and ourselves, we rededicate the Wisconsin State Council's commitment to our Founding Principle, ''Never again will one generation of veterans abandon another.'' And we promise to continue our efforts to make VVA's motto, ''In Service to America,'' an ongoing reality.

May God bless the United States of America. And may peace return to our shores and the world with dispatch.

JOHN MARGOWSKI,
President & Publisher.
MARVIN J. FREEDMAN,
Executive Director & Managing Editor.
JAMES CAREY,
Executive Editor.●

PAYING TRIBUTE TO DR. STEVEN HYMAN

● Mr. DOMENICI. Mr. President, it is with genuine regret that I learned about the planned departure of Dr. Steven Hyman as Director of the National Institute of Mental Health at the NIH. Steve is a Harvard-trained psychiatrist and neuroscientist who has impressed me with his deep understanding that mental illnesses are very real disturbances occurring in the brain, the most complex structure in the known universe. Steve used his expertise as a scientist, along with his remarkable ability to make science readily understandable to lay persons, to convey a simple but profound message to us and to the American public, that there is no scientific or medical justification for treating mental illnesses differently than any other illness.

Dr. Hyman has been at the helm of NIMH with a commitment to encouraging and supporting the basic research that will enable us to develop exciting new treatments, based on an understanding of the disease process itself. Although our current treatments get increasingly better, they are not perfect, they need to be more targeted and rational because as good as these treatments are, those with mental illness desperately need treatments that are more effective. We need to know how these medications are going to work in patients living in the real world, with real work problems because people suffering from severe mental illness often have very complex complicating factors that contribute to the mental illness.

I want to express my sincere appreciation for Steve Hyman's forceful voice of reason, explaining patiently and constantly that, while we don't understand mental illness completely, thanks to magnificent new technology and scientific knowledge, the brain is unlocking its secrets, and the future is bright. This, in turn, I believe has helped convince our colleagues, and the American public—that there must be parity for mental health now.

Steve will be missed, but he has accomplished much during his tenure at the National Institute of Mental Health; his success in bringing research on mental disorders to the forefront of public consciousness will be a strong foundation that his successor must build upon. Nancy and I wish Steve and his family great success and happiness as he begins his new duties as Provost at Harvard University.●

A TRANSITION FOR ONE OF OUR NATION'S FOREMOST MENTAL HEALTH LEADERS

● Mr. WELLSTONE. Mr. President, I rise today to recognize the extraordinary achievements of Dr. Steve Hyman as Director of the National Institute of Mental Health at the National Institutes of Health, and to acknowledge his departure as he moves forward to become Provost of his alma mater, Harvard University. As we strive to maintain the recent Senate victory passing mental health parity legislation, I am reminded again about how fortunate it was to have Steve's leadership during these critical years. His expertise and remarkable ability to convey complex scientific information to the public and to Congress have brought us so much further in the struggle to reduce stigma and to recognize as a society that mental illnesses are real and treatable. The basic scientific facts of mental illness are straightforward, but the difficulties encountered by those who want to eliminate the cruel and unjust stigma that surrounds diseases like schizophrenia, depression, bipolar disorder and others have been monumental. Mental illnesses represent a major portion of the disease burden in the United States and worldwide; depression is the leading cause of disability in the U.S. and throughout the developed world. And yet, our efforts to reduce stigma and provide fair treatment for people with mental illness are still needed. Parity for mental health treatment is a civil rights issue, and the fight for the rights of those with mental illness will not be stopped.

When Steve first came to NIMN, he immediately stated unequivocally that there is no scientific basis for treating mental disorders any differently than other illnesses with respect to insurance coverage. That was his objective and straightforward view as a distinguished neuroscientist. I have watched Steve for these last 5½ years at the helm of NIMH, and he has clearly taken the scientific study of mental illness very far. His leadership and his extraordinary talents as a scientist, communicator, and teacher have made him a major force in advancing the public's awareness of the brain and its dysfunctions. Although stigma still exists, these are very few who dare to challenge the scientific record that mental illnesses are very real disorders of the brain, often disrupting that which makes us most human, our behavior.

I am particularly pleased that Steve has been at the forefront of the efforts to include the voices of patients and families in the overall planning process at the NIMH. He has sponsored public, participatory meetings in various areas

of the country, not only to bring information about the latest scientific breakthroughs, but also to seek input from people who live in diverse cultures. To his credit, Steve understood that this process was necessary so that we ensure that the NIMH addressed questions that are relevant and important to all Americans, and to include this information in planning the future of NIMH's research agenda. Steve also enthusiastically supported the effort to include public members as part of the scientific peer review panels that review grant applications. Steve believes, as I do, that the views of patients and family members are crucial because they offer a unique view of research. They ask, Steve often said, the ''so what'' questions that are critical to the real lives of people: Will this research help those who are suffering? Will it make a difference?

As he departs, I know that many of my colleagues join me in wishing him well and thanking him for all he has done to further scientific research and treatment of mental illness. I am confident that Steve has placed the NIMH on a course that promises to build on the remarkable achievements already achieved, one that will take full advantage of scientific opportunities and the extraordinarily challenging public health needs that we as a country are now facing. Dr. Steve Hyman will be sorely missed, but I know he will continue to be a major force for the improvement of mental health care worldwide.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:40 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3210. An act to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 717) to amend the Public Health Service Act to provide for research with respect to various forms of muscular dystrophy, including Duchenne, Becker, limb girdle, congenital, facioscapulohumeral, myotonic, oculopharyngeal, distal, and Emery-Dreifuss muscular dystrophies.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2299) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

ENROLLED BILLS SIGNED

At 10:53 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1459. An act to designate the Federal building and United States courthouse located at 550 West Fort Street in Boise, Idaho, as the ''James A. McClure Federal Building and United States Courthouse.''

S. 1573. An act to authorize the provision of educational and health care assistance to the women and children of Afghanistan.

The enrolled bills were signed subsequently by the President pro tempore (Mr. BYRD).

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

H.R. 2722. An act to implement effective measures to stop trade in conflict diamonds, and for other purposes.

H.R. 3189. An act to extend the Export Administration Act until April 20, 2002.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 3210. An act to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism.

S. 1748. A bill to promote the stabilization of the economy by encouraging financial institutions to continue to support economic development including development in urban areas, through the provision of affordable insurance coverage against acts of terrorism, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, November 30, 2001, she had presented to the President of the United States the following enrolled bills:

S. 1459. An act to designate the Federal building and United States courthouse located at 550 West Ford Street in Boise, Idaho, as the ''James A. McClure Federal Building and United States Courthouse.''

S. 1573. An act to authorize the provision of educational and health care assistance to the women and children of Afghanistan.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as follows:

EC–4592. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled ''Nutrient Criteria Technical Guidance Manual; Estuarine and Coastal Marine Waters''; to the Committee on Environment and Public Works.

EC–4718. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Estrom Helicopter Corp Model F28, F28A, and F28C, F28F, 280, 280F, and 280FX Helicopters'' ((RIN2120–AA64)(2001–0552)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4719. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Time of Designation for Restricted Area R4403 Gainesville, MS'' ((RIN2120–AA66)(2001–0172)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4720. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class D Airspace; Titusville, FL'' ((RIN2120–AA66)(2001–0173)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4721. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 737 600, 700, and 800 Series Airplanes'' ((RIN2120–AA64)(2001–0555)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4722. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Gulfstream Model G V Series Airplanes'' ((RIN2120–AA64)(2001–0554)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4723. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Temporary Extension of Time Allowed for Certain Training and Testing; FAA–2001–10797'' (RIN2120–AH51) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4724. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Aircraft Security Under General Operating and Flight Rules; FAA–2001–10738; SFAR 91'' (RIN2120–AH49) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4725. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Empresa Brasileira de Aeronautica SA Model EMB 135 and EMB 145 Series Airplanes'' ((RIN2120–AA64)(2001–0524)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4726. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation,

transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Rolls-Royce Corporation Model AE 3007A and AE 3007C Turbofan Engines'' ((RIN2120–AA64)(2001–0525)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4727. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Rolls Royce Corporation AE2100 Turboprop and AE 30017 Turboshaft Engines'' ((RIN2120–AA64)(2001–0526)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4728. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class D Airspace; White Plains, NY—docket No. 01–AEA–05FR'' ((RIN2120–AA66)(2001–0159)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4729. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Augusta Model AB412 Helicopters'' ((RIN2120–AA64)(2001–0528)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4730. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Pratt and Whitney JT9D Turbofan Engines'' ((RIN2120–AA64)(2001–0527)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4731. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Pratt and Whitney Canada PT6A Series Turboprop Engines'' ((RIN2120–AA64)(2001–0532)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4732. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter France Model AS350B, B1, B2, B3, BA, D, D1, and AS355E, F, F1, F2, and N Helicopters'' ((RIN2120–AA64)(2001–0531)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4733. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: General Electric Company T58 and CT 58 Series Turboshaft Engines'' ((RIN2120–AA64)(2001–0530)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4734. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Rolls-Royce plb Dart 525, 525F, 528, 528D, 529, 529D, 530, 532, 535, 542, and 552 Series Turboprop Engines'' ((RIN2120–AA64)(2001–0529)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4735. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class Airspace; Farmington, NM'' ((RIN2120–AA66)(2001–0160)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4736. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 777–200 Series Airplanes'' ((RIN2120–AA64)(2001–0523)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4737. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Coudersport, PA'' ((RIN2120–AA66)(2001–0157)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4738. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A300 B2 and B4 Series Airplanes and Model A300 B4–600R, and F4–600R Series Airplanes'' ((RIN2120–AA64)(2001–0533)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4739. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Fokker Model F28 Mark 1000, 2000, 3000, and 4000 Series Airplanes'' ((RIN2120–AA64)(2001–0519)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4740. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 767–300 Series Airplanes Modified by Supplemental Type Certificate SA7019NM–D'' ((RIN2120–AA64)(2001–0521)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4741. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 Series Airplanes'' ((RIN2120–AA64) (2001–0520)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4742. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Change of Using Agency for Restricted Areas R 3008A, R–6B, R–3008C, and R–3008D; Grand Bay Weapons Range, GA'' ((RIN2120–AA66) (2001–0158)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4743. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revocation of Class D Airspace, Fort Worth Carswell AFB, TX; confirmation of effective date'' ((RIN2120–AA66) (2001–0162)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4744. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment and Revision of Restricted Areas, ID; correction'' ((RIN2120–AA66) (2001–0161)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4745. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A340–211 Series Airplanes Modified by Supplemental Type Certificate ST09092AC'' ((RIN2120–AA64) (2001–0522)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4746. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Transport Airplane Fleet Fuel Tank Ignition Source Review; Flammability Reduction, and Maintenance and Inspection Requirements'' (RIN2120–AG62) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4747. A communication from the Acting Director, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Final Rule to List the MS Gopher Frog as Endangered'' (RIN1018–AF90) received on November 27, 2001; to the Committee on Environment and Public Works.

EC–4748. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Post 1996 Rate-of-Progress Plan and One-Hour Ozone Attainment Demonstration for the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area'' (FRL7089–2) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4749. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Delaware; Post–1996 Rate-of-Progress Plans and One-Hour Ozone Attainment Demonstration for the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area'' (FRL7089–3) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4750. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Maryland; One-Hour Ozone Attainment Demonstration for the Baltimore Ozone Nonattainment Area'' (FRL7088–9) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4751. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Reasonably Available Control Technology Requirement for Volatile Organic Compounds and Nitrogen Oxides in the Philadelphia-Wilmington-Trenton Area'' (FRL7089–4) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4752. A communication from the Principal Deputy Associate Administrator of the

Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Maryland; One-Hour Ozone Attainment Demonstration for the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area'' (FRL7089–1) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4753. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Incorporation by Reference of Approval State Hazardous Waste Management Program'' (FRL7014–9) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4754. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Outer Continental Shelf Air Regulations Consistency Update for Alaska'' (FRL7082–4) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4755. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality State Implementation Plans; (STP); Texas: Low Emission Diesel Fuel'' (FRL7091–5) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4756. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plan; Oregon'' (FRL7035–6) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4757. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Plans for Designated Facilities; Puerto Rico'' (FRL7093–9) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4758. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Clean Air Act Determination of Attainment for PM10 Nonattainment Areas; Montana and Colorado'' (FRL7093–7) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4759. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Clean Air Act Full Approval of Partial Operating Permit Program; Allegheny County, Pennsylvania'' (FRL7093–3) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4760. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Clean Air Act Reclassification, San Joaquin Valley Nonattainment Area; Designation of East Kern County Nonattainment Area and Extension of Attainment Date; California; Ozone'' (FRL7093–4) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4761. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Montana; State Implementation Plans; Correction'' (FRL7093–6) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4762. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Nitrogen Oxides Budget Trading Program'' (FRL7094–7) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4763. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Clean Air Final Full Approval of Operating Permit Program; Kentucky'' (FRL7095–1) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4764. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Ethylene Oxide Emissions Standards for Sterilization Facilities'' (FRL7096–1) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4765. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards'' (FRL7095–6) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4766. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Prohibition on Gasoline Containing Lead or Lead Additives for Highway Use: Fuel Inlet Restrictor Exemption for Motorcycles'' (FRL7095–8) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4767. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''State and Federal Operating Permits Programs: Amendments to the Compliance Certification Requirements'' (FRL7096–4) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4768. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the Requirement on Variability in the Composition of Additives Certified Under the Gasoline Deposit Control Program'' (FRL7096–5) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4769. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Plans: Wisconsin: Ozone'' (FRL7094–3) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4770. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Final Authorization of State Hazardous Waste Management Program'' (FRL7097–1) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4771. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Plans: Indiana; Ozone'' (FRL7088–5) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4772. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Illinois; Ozone'' (FRL7088–8) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4773. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Standards of Performance for Large Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994 or for Which Modification or Reconstruction is Commenced After June 19, 1996 and Emission Guidelines and Compliance Times for Large Municipal Waste Combustors That are Constructed on or before September 20, 1994'' (FRL7100–8) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4774. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Waste Management System; Identification and Listing of Hazardous Waste: Inorganic Chemical Manufacturing Wastes; Land Disposal Restriction for Newly Identified Wastes; and CERCLA Hazardous Substances Designation and Reportable Quantities'' (FRL7099–2) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4775. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Illinois; Oxides of Nitrogen Regulations'' (FRL7077–8) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4776. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Indiana; Oxides of Nitrogen Regulations'' (FRL7077–7) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4777. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Maryland; RACT for the Control of VOC Emissions from Iron and Steel Production Installations'' (FRL7083–7) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4778. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality State Implementation Plans; (SIP); Alabama: Control of Gasoline Sulfur and Volatility'' (FRL7098–6) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4779. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air

Quality Implementation Plans; Maryland; Control of Volatile Organic Compound Emissions from Distilled Spirits Facilities, Aerospace Coating Operations and Kraft Pulp Mills'' (FRL7085–1) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4780. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans: Alabama: Attainment Demonstration of the Birmingham One-Hour Ozone Nonattainment Area'' (FRL7098–7) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4781. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Illinois NOx Regulations'' (FRL7077–9) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4782. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Wisconsin'' (FRL7064–4) received on November 16, 2001; to the Committee on Environment and Public Works.

EC–4783. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Protection of Stratospheric Ozone: Reconsideration of the 610 Nonessential Products Ban'' (FRL7101–1) received on November 16, 2001; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JEFFORDS, from the Committee on Environment and Public Works, without amendment:

H.R. 643: A bill to reauthorize the African Elephant Conservation Act. (Rept. No. 107–104).

H.R. 645: A bill to reauthorize the Rhinoceros and Tiger Conservation Act of 1994. (Rept. No. 107–105).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. GRAMM (for himself, Mr. ENZI, Mr. BENNETT, Mr. BUNNING, and Mr. ALLARD):

S. 1748. A bill to promote the stabilization of the economy by encouraging financial institutions to continue to support economic development including development in urban areas, through the provision of affordable insurance coverage against acts of terrorism, and for other purposes; read the first time.

By Mr. KENNEDY (for himself, Mr. BROWNBACK, Mrs. FEINSTEIN, Mr. KYL, Mr. LEAHY, Mr. HATCH, Mr. EDWARDS, Mr. HELMS, Mr. DURBIN, Mr. THURMOND, Mr. CONRAD, Mr. BOND, Mrs. CLINTON, Mr. SESSIONS, Mr. DEWINE, and Mrs. HUTCHISON):

S. 1749. A bill to enhance the border security of the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. HOLLINGS (for himself, Mr. MCCAIN, Mr. BREAUX, and Mr. SMITH of Oregon):

S. 1750. A bill to make technical corrections to the HAZMAT provisions of the USA PATRIOT Act; to the Committee on Commerce, Science, and Transportation.

By Mr. GRAMM (for himself, Mr. ENZI, Mr. BENNETT, Mr. BUNNING, and Mr. ALLARD):

S. 1751. A bill to promote the stabilization of the economy by encouraging financial institutions to continue to support economic development, including development in urban areas, through the provision of affordable insurance coverage against acts of terrorism, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CORZINE (for himself, Ms. SNOWE, Ms. CANTWELL, Mr. DODD, Mr. LEAHY, and Mrs. MURRAY):

S. 1752. A bill to amend the Public Health Service Act with respect to facilitating the development of microbicides for preventing transmission of HIV and other sexually transmitted diseases; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BINGAMAN (for himself, Mr. CAMPBELL, and Ms. CANTWELL):

S. 1753. A bill to amend title XIX of the Social Security Act to include medical assistance furnished through an urban Indian health program operated by an urban Indian organization pursuant to a grant or contract with the Indian Health Service under title V of the Indian Health Care Improvement Act in the 100 percent Federal medical assistance percentage applicable to the Indian Health Service; to the Committee on Finance.

By Mr. LEAHY (for himself, Mr. HATCH, Mr. REID, and Mr . BENNETT):

S. 1754. A bill to authorize appropriations for the United States Patent and Trademark Office for fiscal years 2002 through 2007, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ALLEN (for himself, Mr. HELMS, Mr. CAMPBELL, Mr. WARNER, Mr. ALLARD, Mr. INOUYE, Mrs. FEINSTEIN, Mr. BIDEN, Mr. SMITH of Oregon, Mr. GRASSLEY, Mr. SESSIONS, Mr. FITZGERALD, and Mr. GRAMM):

S. Res. 185. A resolution recognizing the historical significance of the 100th anniversary of Korean immigration to the United States; to the Committee on the Judiciary.

By Mr. SCHUMER (for himself and Mrs. CLINTON):

S. Con. Res. 87. A concurrent resolution expressing the sense of Congress regarding the crash of American Airlines Flight 587; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 1552

At the request of Mr. HARKIN, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 1552, a bill to provide for grants through the Small Business Administration for losses suffered by general aviation small business concerns as a result of the terrorist attacks of September 11, 2001.

S. 1566

At the request of Mr. REID, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1566, a bill to amend the Internal Revenue code of 1986 to modify and expand the credit for electricity produced from renewable resources and waste products, and for other purposes.

S. 1707

At the request of Mr. JEFFORDS, the names of the Senator from Arkansas (Mrs. LINCOLN), the Senator from Minnesota (Mr. WELLSTONE), and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 1707, a bill to amend title XVIII of the Social Security Act to specify the update for payments under the medicare physician fee schedule for 2002 and to direct the Medicare Payment Advisory Commission to conduct a study on replacing the use of the sustainable growth rate as a factor in determining such update in subsequent years.

S. 1745

At the request of Mrs. LINCOLN, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Florida (Mr. GRAHAM) were added as cosponsors of S. 1745, a bill to delay until at least January 1, 2003, any changes in medicaid regulations that modify the medicaid upper payment limit for non-State Government-owned or operated hospitals.

S.J. RES. 13

At the request of Mr. WARNER, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S.J. Res. 13, a joint resolution conferring honorary citizenship of the United States on Paul Yves Roch Gilbert du Motier, also known as the Marquis de Lafayette.

S. RES. 109

At the request of Mr. REID, the names of the Senator from Tennessee (Mr. FRIST), the Senator from Nebraska (Mr. NELSON), and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of S. Res. 109, a resolution designating the second Sunday in the month of December as ''National Children's Memorial Day'' and the last Friday in the month of April as ''Children's Memorial Flag Day.''

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KENNEDY (for himself, Mr. BROWNBACK, Mrs. FEINSTEIN, Mr. KYL, Mr. LEAHY, Mr. HATCH, Mr. EDWARDS, Mr. HELMS, Mr. DURBIN, Mr. THURMOND, Mr. CONRAD, Mr. BOND, Mrs. CLINTON, Mr. SESSIONS, Mr. DEWINE, and Mrs. HUTCHISON):

S. 1749. A bill to enhance the border security of the United States, and for other purposes; to the Committee on the Judiciary.

Mr. KENNEDY. Mr. President, I am honored to join Senator BROWNBACK, Senator FEINSTEIN, Senator KYL, Senator LEAHY, Senator HATCH, and other colleagues in introducing legislation to strengthen the security of our borders,

improve our ability to screen foreign nationals, and enhance our ability to deter potential terrorists. Senator BROWNBACK and I have worked closely with Senator FEINSTEIN and Senator KYL over the last month to develop a broad and effective response to the national security challenges we face. The need is urgent to improve our intelligence and technology capabilities, strengthen training programs for border officials and foreign service officers, and improve the monitoring of foreign nationals already in the United States.

In strengthening security at our borders, we must also safeguard the unobstructed entry of the more than 31 million persons who enter the U.S. legally each year as visitors, students, and temporary workers. Many others cross our borders from Canada and Mexico to conduct daily business or visit close family members.

We also must live up to our history and heritage as a nation of immigrants. Continued immigration is part of our national well-being, our identity as a Nation, and our strength in today's world. In defending America, we are also defending the fundamental constitutional principles that have made America strong in the past and will make us even stronger in the future.

Our action must strike a careful balance between protecting civil liberties and providing the means for law enforcement to identify, apprehend and detain potential terrorists. It makes no sense to enact reforms that severely limit immigration into the United States. ''Fortress America,'' even if it could be achieved, is an inadequate and ineffective response to the terrorist threat.

Enforcement personnel at our ports of entry are a key part of the battle against terrorism, and we must provide them with greater resources, training, and technology. These men and women have a significant role in the battle against terrorism. This legislation will ensure that they receive adequate pay, can hire necessary personnel, are well-trained to identify individuals who pose a security threat, have access to important intelligence information, and have the technologies they need to enhance border security and facilitate cross-border commerce.

The Immigration and Naturalization Service must be able to retain highly skilled immigration inspectors. Our legislation provides incentives to immigration inspectors by providing them with the same benefits as other law enforcement personnel.

Expanding the use of biometric technology is critical to securing our borders. This legislation authorizes the funding needed to bring our ports of entry into the biometric age and equip them with biometric data readers and scanners.

We must expand the use of biometric border crossing cards. The time frame previously allowed for individuals to obtain these cards was not sufficient. This legislation extends the deadline for individuals crossing the border to acquire the biometric cards.

The USA Patriot Act addressed the need for machine-readable passports, but it did not focus on the need for machine-readable visas issued by the United States. This legislation enables the Department of State to raise fees through the use of machine-readable visas and use the funds collected from these fees to improve technology at our ports of entry.

Our efforts to improve border security must also include enhanced coordination and information-sharing by the Department of State, the Immigration and Naturalization Service, and law enforcement and intelligence agencies. This legislation will require the President to submit and implement a plan to improve access to critical security information. It will create an electronic data system to give those responsible for screening visa applicants and persons entering the U.S. the tools they need to make informed decisions. It also provides for a temporary system until the President's plan is fully implemented.

We must also strengthen our ability to monitor foreign nationals in the United States. In 1996, Congress enacted legislation mandating the development of an automated entry/exit control system to record the entry of every non-citizen arriving in the U.S., and to match it with the record of departure. Although the technology is currently available for such a system, it has not been put in place because of the high costs involved. Our legislation builds on the anti-terrorism bill and provides greater direction to the INS for implementing the entry/exit system.

We must improve the ability of foreign service officers to detect and intercept potential terrorists before they arrive in the U.S. Most foreign nationals who travel here must apply for visas at American consulates overseas. Traditionally, consular officers have concentrated on interviewing applicants to determine whether they are likely to violate their visa status. Although this review is important, consular officers must also be trained specifically to screen for security threats.

Terrorist lookout committees will be established in every U.S. consular mission abroad in order to focus the attention of our consular officers on specific threats and provide essential critical national security information to those responsible for issuing visas and updating the lookout database.

This legislation will help restrict visas to foreign nationals from countries that the Department of State has determined are sponsors of terrorism. It prohibits issuing visas to individuals from countries that sponsor terrorism, unless the Secretary of State has determined that the person is not a security threat.

The current Visa Waiver Program, which allows individuals from participating countries to enter the U.S. for a limited period without visas, strengthens relations between the United States and those countries, and encourages economic growth around the world. Given it's importance, we must safeguard its continued use, while also ensuring that a country's designation as a participant in the program does not undermine U.S. law enforcement and security. This legislation will only allow a country to be designated as a visa waiver participant, or continue to be designated, if the Attorney General and Secretary of State determine that the country reports instances of passport theft to the U.S. government in a timely manner.

We must do more to improve our ability to screen individuals along our entire North American perimeter. This legislation directs the Department of State, the Department of Transportation, the Department of Justice and the INS to work with the Office of Homeland Security to screen individuals at the perimeter before they reach our continent, and to work with Canada and Mexico to coordinate these efforts.

We must require all airlines to electronically transmit passenger lists to destination airports in the United States, so that once planes have landed, law enforcement authorities can intercept passengers who are on federal lookout lists. United States airlines already do this, but some foreign airlines do not. Our legislation requires all airlines and all other vessels to transmit passenger manifest information prior to their arrival in the United States.

When planes land at our airports, inspectors are under significant time constraints to clear the planes and ensure the safety of all departing passengers. Our legislation removes the existing 45 minute deadline, and provides inspectors with adequate time to clear and secure aircraft.

In 1996, Congress established a program to collect information on non-immigrant foreign students and participants in exchange programs. Although a pilot phase of this program ended in 1999, a permanent system has not yet been implemented. Congress enacted provisions in the recent anti-terrorism bill for the quick and effective implementation of this system by 2003, but gaps still exist. This legislation will increase the data collected by the monitoring program to include the date of entry, the port of entry, the date of school enrollment, and the date the student leaves the school. It requires the Department of State and INS to monitor students who have been given visas, and to notify schools of their entry. It also requires a school to notify the INS if a student does not actually report to the school.

INS regulations provide for regular reviews of over 26,000 educational institutions authorized to enroll foreign students. However, inspections have

been sporadic in recent years. This legislation will require INS to monitor institutions on a regular basis. If institutions fail to comply with these and other requirements, they can lose their ability to admit foreign students. In addition, this legislation provides for an interim system until the program established by the 1996 law is implemented.

As we work to achieve stronger tracking systems, we must also remember that the vast majority of foreign visitors, students, and workers who overstay their visas are not criminals or terrorists. It would be wrong and unfair, without additional information, to stigmatize them.

The USA Patriot Act was an important part of the effort to improve immigration security, but further action is needed. This legislation is a needed bipartisan effort to strengthen the security of our borders and enhance our ability to prevent future terrorist attacks, while also reaffirming our tradition as a Nation of immigrants. I urge my colleagues to support it.

Mr. BROWNBACK. Mr. President, the terrorist attacks of September 11 have unsettled the public's confidence in our Nation's security and have raised concerns about whether our institutions are up to the task of intercepting and thwarting would-be terrorists. Given that the persons responsible for the attacks on the World Trade Center and the Pentagon came from abroad, our citizens understandably ask how these people entered the United States and what can be done to prevent their kind from doing so again. Clearly, our immigration laws and policies are instrumental to the war on terrorism. While the battle may be waged on several fronts, for the man or woman on the street, immigration is in many ways the front line of our defense.

The immigration provisions in the anti-terrorist bill passed earlier this month, the USA PATRIOT Act of 2001, represent an excellent first step toward improving our border security, but we must not stop there. Our Nation receives millions of foreign nationals each year, persons who come to the United States to visit family, to do business, to tour our sites, to study and learn. Most of these people enter lawfully and mean us well. They are our relatives, our friends, and our business partners. They are good for our economy and, as witnesses to our democracy and our way of life, become our ambassadors of good will to their home countries.

However, the unfortunate reality is that a fraction of these people mean us harm, and we must take intelligent measures to keep these people out. For that reason, I am pleased to introduce today, along with my colleagues Senator KENNEDY, Senator KYL, Senator FEINSTEIN, Senator HATCH, Senator LEAHY, and others, legislation that looks specifically toward strengthening our borders and better equipping the agencies that protect them. The Enhanced Border Security and Visa Entry Reform Act of 2001 represents an earnest, thoughtful, and bipartisan effort to refine our immigration laws and institutions to better combat the evil that threatens our Nation.

This legislation recognizes that the war on terrorism is, in large part, a war of information. To be successful, we must improve our ability to collect, compile, and utilize information critical to our safety and national security. This bill requires that the agencies tasked with screening visa applicants and applicants for admission, namely the Department of State and the Immigration and Naturalization Service, be provided with the necessary law enforcement and intelligence information that will enable these agencies to identify alien terrorists. By directing better coordination and access, this legislation will bring together the agencies that have the information and those that need it. With input from the Office of Homeland Security, this bill will make prompt and effective information-sharing between these agencies a reality.

In complement to the USA PATRIOT Act, this legislation provides for necessary improvements in the technologies used by the State Department and the Service. It provides funding for the State Department to better interface with foreign intelligence information and to better staff its infrastructure. It also provides the Service with guidance on the implementation of the Integrated Entry and Exit Data System, pointing the Service to such tools as biometric identifiers in immigration documents, machine readable visas and passports, and arrival-departure and security databases.

To the degree that we can realistically do so, we should attempt to intercept terrorists before they reach our borders. Accordingly, we must consider security measures not only at domestic ports of entry but also at foreign ports of departure. To that end, this legislation directs the State Department and the Service, in consultation with Office of Homeland Security, to examine, expand, and enhance screening procedures to take place outside the United States, such as preinspection and preclearance. It also requires international air carriers to transmit passenger manifests for pre-arrival review by the Service. Further, it eliminates the 45-minute statutory limit on airport inspections, which many feel compromises the Service's ability to screen arriving flights properly. Finally, since we should ultimately look to expand our security perimeter to include Canada and Mexico, this bill requires these agencies to work with our neighbors to create a collaborative North American Security Perimeter.

While this legislation mandates certain technological improvements, it does not ignore the human element in the security equation. This bill requires that ''terrorist lookout committees'' be instituted at each consular post and that consular officers be given special training for identifying would-be terrorists. It also provides special training to border patrol agents, inspectors, and foreign service officers to better identify terrorists and security threats to the Unites States. Moreover, to help the Service retain its most experienced people on the borders, this bill provides the Service with increased flexibility in pay, certain benefit incentives, and the ability to hire necessary support staff.

Finally, this legislation considers certain classes of aliens that raise security concerns for our country: nationals from states that sponsor terrorism and foreign students. With respect to the former, this bill expressly prohibits the State Department from issuing a nonimmigrant visa to any alien from a country that sponsors terrorism until it has been determined that the alien does not pose a threat to the safety or national security of the United States. With respect to the latter, this legislation would fill data and reporting gaps in our foreign student programs by requiring the Service to electronically monitor every stage in the student visa process. It would also require the school to report a foreign student's failure to enroll and the Service to monitor schools' compliance with this reporting requirement.

While we must be careful not to compromise our values or our economy, we must take intelligent, immediate steps to enhance the security of our borders. This legislation would implement many changes that are vital to our war on terrorism. I therefore urge my colleagues to support it.

Mrs. FEINSTEIN. Mr. President, I am pleased to join Senators KENNEDY, BROWNBACK, and KYL in introducing the Enhanced Border Security and Visa Entry Reform Act of 2001. We submit this legislation with 16 sponsors.

This legislation represents a consensus, drawing upon the strengths of both the Visa entry Reform Act of 2001, which I introduced with my colleague from Arizona, Senator KYL, and the Enhanced border Security Act of 2001, which Senators KENNEDY and BROWNBACK introduced.

I believe the legislation we are introducing today will garner widespread support from our colleagues on both sides of the aisle.

September 11 clearly pointed out the shortcomings of the immigration and visa system. For example: All 19 terrorist hijackers entered the U.S. legally with valid visas. Three of the hijackers had remained in the U.S. after their visas had expired. One entered on a foreign student visa. Another, Mohammed Atta had filed an application to change status to M–1, which was granted in July. However, Mr. Atta sought admission and was admitted to the United States based on his then current B–1 visitor visa.

Most people don't realize how many people come into our country; how little we know about them; and whether they leave when required.

Consider the following: The Visa Waiver Program: 23 million people from 29 different countries; no visas; little scrutiny; no knowledge where they go in the U.S. or whether they leave once their visas expire. The INS estimates that over 100,000 blank passports have been stolen from government offices in participating countries in recent years.

Abuse of the VISA Waiver Program poses threats to U.S. national security and increases illegal immigration. For example, one of the co-conspirators in the World Trade Center bombing of 1993 deliberately chose to use a fraudulent Swedish passport to attempt entry into the U.S. because of Sweden's participation in the Visa Waiver Program.

Foreign Student Visa Program: more than 500,000 foreign nationals entering each year; within the last 10 years, 16,000 came from such terrorist supporting states as Iran, Iraq, Sudan, Libya, and Syria.

The foreign student visa system is one of the most under-regulated systems we have today. We've seen bribes, bureaucracy, and other problems with this system that leave it wide open to abuse by terrorists and other criminals.

For example, in the early 1990s, five officials at four California colleges, were convicted of taking bribes, providing counterfeit education documents, and fraudulently applying for more than 100 foreign student visas.

It is unclear what steps the INS took to find and deport the foreign nationals involved in this scheme.

Each year, we have 300 million border crossings. For the most part, these individuals are legitimate visitors to our country. We currently have no way of tracking all of these visitors.

Mohamed Atta, the suspected ringleader of the attack, was admitted as a non-immigrant visitor in July 2001. He traveled freely to and from the U.S. during the past 2 years and was, according to the INS, in ''legal status'' the day of the attack. Other hijackers also traveled with ease throughout the country.

It has become all too clear that without an adequate tracking system, our country becomes a sieve, creating ample opportunities for terrorists to enter and establish their operations without detection.

I sit as the Chair of the Judiciary Committee's Subcommittee on Technology, Terrorism and Government Information. Last month, we held a hearing on the need for new technologies to assist our government agencies in keeping terrorists out of the United States.

The testimony at that hearing was very illuminating. We were given a picture of an immigration system in chaos, and a border control system rife with vulnerabilities. Agency officials don't communicate with each other. Computers are incompatible. And even in instances here technological leaps have been made, like the issuance of more than 4.5 million ''smart'' border crossing cards with biometric data, the technology is not even used.

Personally, I am astonished that a person can apply for a visa and granted a visa by the State Department, and that there is no mechanism by which the FBI or CIA can raise a red flag with regard to the individual if he or she is known to have links to terrorist groups or otherwise pose a threat to national security.

In the wake of September 11, it is unconscionable that a terrorist might be permitted to enter the U.S. simply because our government agencies don't share information.

Indeed, what we have discovered in the aftermath of the September 11 terrorist attacks was that the perpetrators of these attacks had a certain confidence that our immigration laws could be circumvented where necessary.

The terrorists did not have to steal into the country as stowaways on sea vessels, or a border-jumpers evading federal authorities. Most, if not all, appeared to have come in with temporary visas, which are routinely granted to tourists, students, and other short-term visitors to the U.S.

Let me talk about the legislation that I cosponsored with Senators KENNEDY, BROWNBACK, and KYL.

First, a key component of this solution is the creation of an interoperable data system that allows the Department of State, the INS, and other relevant Federal agencies to obtain critical information about foreign nationals who seek entry into or who have entered the United States.

Right now, our government agencies use different systems, with different information, in different formats. And they often refuse to share that information with other agencies within our own government. This is not acceptable.

When a terrorist presents himself at a consular office asking for a visa, or at a border crossing with a passport, we need to make sure that his name and identifying information is checked against an accurate, up-to-date, and comprehensive database. Period.

The Enhanced Border Security and Visa Entry Reform Act would require the creation of this interoperable data system, and will require the cooperation of all U.S. government agencies in providing accurate and compatible information to that system.

In addition, the interoperable data system would include sophisticated, linguistically-based, name-matching algorithms so that the computers can recognize that ''Muhamad Usam Abdel Raqeeb'' and ''Haj Mohd Othman Abdul Rajeeb,'' are transliterations of the same name. In other words, this provision would require agencies to ensure that names can be matched even when they are stored in different sets of fields in different databases.

Incidentally, this legislation also contains strict privacy provisions, limiting access to this database to authorized Federal officials. And the bill contains severe penalties for wrongful access or misuse of information contained in the database.

Second, this legislation includes concrete steps to restore integrity to the immigration and visa process. including the following: The legislation would require all foreign nationals to be fingerprinted and, when appropriate, submit other biometric data, to the State Department when applying for visa. This provision should help eliminate fraud, as well as identify potential threats to the country before they gain access.

We include reforms of the visa waiver program, so that any country wishing to participate in that program must begin to provide its citizens with tamper-proof, machine-readable passports. The passports must contain biometric data by October 26, 2003, to help verify identity at U.S. ports of entry.

Prior to admitting a foreign visitor from a visa waiver country, the INS inspector must first determine that the individual does not appear in any ''lookout'' databases.

In addition, the INS would be required to enter stolen passport numbers in the interoperable data system within 72 hours after receiving notification of the loss or theft of a passport.

We would establish a robust biometric visa program. By October 26, 2003, newly issued visas must contain biometric data and other identifying information, like more than 4 million already do on the Southwest border, and, just as importantly, our own officials at the border and other ports of entry must have the equipment necessary to read the new biometric cards.

We worked closely with the university community in crafting new, strict requirements for the student visa program to crack down on fraud, make sure that students really are attending classes, and give the government the ability to track any foreign national who arrives on a student visa but fails to enroll in school.

The legislation prohibits the issuance of a student visa to any citizen of a country identified by the State Department as a terrorist-supporting nation. There is a waiver provision to this prohibition, however, allowing the State Department to allow students even from these countries in special cases.

We require that airlines and cruiseliners provide passenger and crew manifests to immigration officials before arrival, so that any potential terrorists or other wrongdoers can be singled out before they arrive in this country and disappear among the general populace.

The bill contains a number of other related provisions as well, but the gist of the legislation is this: Where we can provide law enforcement more information about potentially dangerous foreign nationals, we do so. Where we can reform our border-crossing system to weed out or deter terrorists or others

who would do us harm, we do so. And where we can update technology to meet the demands of the modern war against terror, we do that as well.

As we prepare to modify our immigration system, we must be sure to enact changes that are realistic and feasible. We must also provide the necessary tools to implement them.

Our Nation will be no more secure tomorrow if we create new top-of-the line databases and do not see to it that government agencies use them to share and receive critical information.

We will be no safer tomorrow if we do not create a workable entry-exit tracking system to ensure that terrorists do not enter the U.S. and blend into our communities without detection.

And we will be no safer if we simply authorize new programs and information sharing, but do not provide the resources necessary to put the new technology at the border, train agents appropriately, and require our various government agencies to cooperate in this effort.

We have a lot to do but I am confident that we will move swiftly to address these important issues. The legislation Senators KENNEDY, BROWNBACK, KYL, and I introduce today is an important, and strong, first step. But this is only the beginning of a long, difficult process.

In closing, I would like to respond to concerns that this bill is ''anti-immigrant.'' We are a nation of immigrants. Indeed, the overwhelming percentage of the people who come to live in this country do so to enjoy the blessings of liberty, equality, and opportunity. The overwhelming percentage of the people who visa this country mean us no harm.

But there are several thousand innocent people, including foreign nationals, who were killed on September 11 in part because a network of fanatics determined to wreak death, destruction, and terror exploited weaknesses in our immigration system to come here, to stay here, to study here, and to kill here.

We learned at Oklahoma City that not all terrorists are foreign nationals. But the world is a dangerous place, and there are peopled and regimes that would destroy us if they had the chance.

We are all casualties of September 11. Our society has necessarily changed as our perception of the threats we face has changed. The scales have fallen from our eyes.

It is unfortunate that we need to address the vulnerabilities in our immigration system that September 11 painfully revealed. The changes we need to make in that system will inconvenience people. We can ''thank'' the terrorists for that.

Once implemented, however, those changes will make it easier for law-abiding foreign to visit or study here, and for law-abiding immigrants who want to live here. More important, once they are here, their safety, and ours, will be greatly enhanced.

We must do everything we can to deter the terrorists, here and abroad, who would do us harm from Oklahoma City to downtown Manhattan, we have learned just how high the stakes are. It would dishonor the innocent victims of September 11 and the brave men and women of our armed forces who are defending our liberty at this very instant, if we flag or fail in this effort.

I urge my colleagues to support us on this legislation.

Mr. KYL. Mr. President, today, Senators KENNEDY, BROWNBACK, FEINSTEIN and I join together to introduce the Enhanced Border Security and Visa Entry Reform Act of 2001. This bill represents the merging of counter-terrorism legislation recently introduced by Senator FEINSTEIN and I and separately by Senators KENNEDY and BROWNBACK. This bipartisan, streamlined product, cosponsored by both the chairman and ranking Republican of the Senate Judiciary Committee, will significantly enhance our ability to keep terrorists out of the United States and find terrorists who are here. I also want to reiterate my appreciation to Senators KENNEDY, FEINSTEIN, and BROWNBACK, and especially to their staffmembers, for their hard work and cooperation in developing this bill. I am hopeful that we can work together toward the bill's passage, and signature into law, before the 107th Congress adjourns for the year.

Last month the President signed into law anti-terrorism legislation that will provide many of the tools necessary to keep terrorists out of the United States, and to detain those terrorists who have entered our country. These tools, while all important, will be significantly enhanced by the bill we introduce today.

Under the Border Security and Visa Entry Reform Act of 2001, the Homeland Defense director will be responsible for the coordination of Federal law enforcement and intelligence communities, the Departments of Transportation, State, Treasury, and all other relevant agencies to develop and implement a comprehensive, interoperable electronic data system for these governmental agencies to find and keep out terrorists. That system will be up and running by October 26, 2003, 2 years after the signing into law of the USA Patriot Act.

Under our bill, terrorists will be deprived of the ability to present fake or altered international documents in order to gain entrance, or stay here. Foreign nationals will be provided with new travel documents, using new technology that will include a person's fingerprint(s) or other form of ''biometric'' identification. These cards will be used by visitors upon exit and entry into the United States, and will alert authorities immediately if a visa has expired or a red flag is raised by a federal agency. Under our bill, any foreign passport or other travel document issued after October 26, 2003 will have to contain a biometric component. The deadline for providing for a way to compare biometric information presented at the border is also October 26, 2003.

Another provision of the bill will further strengthen the ability of the U.S. Government to prevent terrorists from using our ''Visa Waiver Program'' to enter the country. Under our bill, the 29 participating Visa Waiver nations will, in addition to the USA Patriot Act Visa Waiver reforms, be required to report stolen passport numbers to the State Department; otherwise, a nation is prohibited from participating in the program. In addition, our bill clarifies that the Attorney General must enter stolen passport numbers into the interoperable data system within 72 hours of notification of loss or theft. Until that system is established, the Attorney General must enter that information into any existing data system.

Another section of our bill will make a significant difference in our efforts to stop terrorists from ever entering our country. Passenger manifests on all flights scheduled to come to the United States must be forwarded in real-time, and then cleared, by the Immigration and Naturalization Service prior to the flight's arrival. All cruise and cargo lines and cross-border bus lines will also have to submit such lists to the INS. Our bill also removes a current U.S. requirement that all passengers on flights to the United States be cleared by the INS within 45 minutes of arrival. Clearly, in some circumstances, the INS will need more time to clear all prospective entrants to the United States. These simple steps will give appropriate officials advance notice of foreigners coming into the country, particularly visitors or immigrants who pose security threats to the United States.

The Border Security and Visa Entry Reform Act will also provide much needed reforms and requirements in our U.S. foreign student visa program, which has allowed numerous foreigners to enter the country without ever attending classes and, for those who do attend class, with lax or no oversight of such students by the Federal Government. Our bill will change that, and will require that the State Department within 4 months, with the concurrence of the Department, maintain a computer database with all relevant infromation about foreign students.

In the past decade, more than 16,000 people have entered the United States on student visas from states included on the Government's list of terrorist sponsors. Notwithstanding that Syria is one of the countries on the list, the State Department recently issued visas to 14 Syrian nationals so that they could attend flight schools in Fort Worth, TX. United States educational institutions will be required to immediately notify the INS when a foreign student violates the term of the visa by failing to show up for class or leaving

school early. Our legislation will prevent most persons from obtaining student visas if they come from terrorist-supporting states such as Iran, Iraq, Sudan, Libya, and Syria, unless the Secretary of State and Attorney General determine that such applicants do not pose a threat to the safety or national security of the United States.

For the first time since the War of 1812, the United States has faced a massive attack from foreigners on our own soil. Every one of the terrorists who committed the September 11 atrocities were foreign nationals who had entered the United States legally through our visa system. None of them should have been allowed entry due to their ties to terrorist organizations, and yet even those whose visas had expired were not expelled.

Mohamed Atta, for example, the suspected ringleader of the attacks, was allowed into the United States on a tourist visa, even though he made clear his intentions to go to flight school while in the United States. Clearly, at the very least, he should have been queried about why he was using his tourist visa to attend flight school.

Another hijacker, Hani Hanjour, was here on a student visa that had expired as of September 11. Hani Hanjour never attended class. In addition, at least two other visitor visa-holders overstayed their visa. In testimony before the Terrorism subcommittee of which I am the ranking member, U.S. officials have told us that they possess little information about foreigners who come into this country, how many there are, and even whether they leave when required by their visas.

America is a nation that welcomes international visitors, and should remain so. But terrorists have taken advantage of our system and its openness. Now that we face new threats to our homeland, it is time we restore some balance to our consular and immigration policies.

As former chairman and now ranking Republican of the Judiciary Committee's Terrorism Subcommittee, I have long suggested, and strongly supported, many of the anti-terrorism and immigration initiatives now being advocated by Republicans and Democrats alike. In my sadness about the overwhelming and tragic events that took thousands of precious lives, I am resolved to push forward on all fronts to fight against terrorism. That means delivering justice to those who are responsible for the lives lost on September 11, and reorganizing the institutions of government so that the law-abiding can continue to live their lives in freedom. It is extremely important that we pass the Border Security and Visa Entry Reform Act before we adjourn for the year. To all of the Senators who worked on this bill, including Senators KENNEDY, FEINSTEIN, BROWNBACK, and HATCH, SNOWE, CANTWELL, BOND, SESSIONS, THURMOND and others I again want to express my appreciation. This bill will make a difference.

By Mr. HOLLINGS (for himself, Mr. MCCAIN, Mr. BREAUX, and Mr. SMITH of Oregon):

S. 1750. A bill to make technical corrections to the hazmat provisions of the USA PATRIOT Act; to the Committee on Commerce, Science, and Transportation.

Mr. HOLLING. Mr. President, today I join with my colleagues Senators MCCAIN, BREAUX, and SMITH in introducing the Hazmat Endorsements Requirement Act. We introduce this legislation today to improve the implementation and effectiveness of Section 1012 of H.R. 3162, The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism, (USA PATRIOT), Act of 2001, [Public Law 107–56], enacted on October 26, 2001.

The legislation we are introducing today primarily addresses technical corrections to Section 1012 of the USA PATRIOT Act. Due to procedural agreements, the Senate consideration of H.R. 3162 did not provide for any amendments. I did however, engage in a colloquy with Chairman LEAHY to state my concerns with section 1012 and my desire to address my concerns over substance, scope and procedure in subsequent legislation. The changes in legislation assume continuation of the basic framework of section 1012 requiring that one, States request security checks from the Attorney General for driver license applicants who would transport certain hazardous materials; second, the Attorney General conduct checks of relevant information systems and then provide the results to the Department of Transportation; and third, the Department of Transportation notify requesting States whether applicants pose a security threat.

Our bill does the following: clarifies the definition of hazardous materials and gives the Secretary the ability to expand the list as national security issues require; defines disqualifying offenses that would result in the denial of a hazardous materials endorsement; provides for an appeals process in the event an individual is denied a hazardous materials endorsement based on the results of a background check; extends the requirement for background checks to Canadian and Mexican drivers who drive commercial vehicles carrying hazardous materials in the United States; establishes penalties for fraudulently issued or obtained licenses; and requires the Department of transportation to report back to the Congress on security improvements that can be made in the transport of hazardous materials.

Approximately 10 million drivers have commercial drivers licenses and almost 2.5 million of those drivers have hazardous materials endorsements. The law has not required criminal background checks for applicants seeking CDLs. However, section 1012 of the USA PATRIOT Act now requires any driver of a commercial motor vehicle who transports hazardous materials to have a criminal background check prior to being issued a commercial drivers license (CDL). That requirement became effective upon the enactment of that law in October.

Since the passage of the USA PATRIOT Act, we have worked to address the concerns raised by all interested parties involved in this issue, including the administration, the States, public safety officials, commercial motor vehicle drivers, and motor carriers. While everyone has supported the concept of performing background checks, it has not yet been implemented because the infrastructure for conducting background checks does not exist. We believe the provisions contained in this legislation will aid the administration, the State licensing agencies, and all interested parties by providing a clear understanding of the requirements associated with granting a license permitting a driver to transport hazardous cargo.

Senator BREAUX chaired a hearing on October 10, 2001, on bus and truck security and hazardous materials licensing for commercial drivers. Of particular concern were reports that terrorists may have been seeking licenses to drive trucks with hazardous materials. On October 4, 2001, a Federal grand jury in Pittsburgh indicted 16 people on charges of fraudulently obtaining commercial driver's licenses, including licenses to haul hazardous materials. Other incidents include a report that in September the Federal Bureau of Investigation, FBI, arrested a man, Nabil Al-Marabh, linked to an associate of Osama bin Laden, who had a hazardous materials drivers license. Al-Marabh had a commercial driver's license issued by the State of Michigan.. That license, issued on September 11, 2000, allowed Al-Marabh to operate vehicles weighing 100,000 pounds or more. Additionally, Al-Marabh obtained what is called an ''endorsement'' the same day that allowed him to transport hazardous materials. He took a test and paid the fee to obtain that endorsement.

During that hearing, many options for increasing the security of hazardous materials shipments were discussed, including requiring background checks for drivers of commercial vehicles carrying hazardous materials. As chairman, I am committed to working with Senators MCCAIN, BREAUX, and SMITH to introduce a more comprehensive legislative proposal next year which will reauthorize the Hazardous Materials Transportation Act, HMTA. Reauthorization of the HMTA addresses training, emergency response, safety and security concerns for all movements of hazardous materials.

Annually, more than four billion tons of hazardous materials, an estimated 800,000 hazardous materials shipments daily, are transported by land, sea, and air in the United States. While hazardous materials transportation invoices all transportation modes, truck transport typically accounts for the

majority of all hazardous materials shipments, although the tonnage transported is more equally divided between truck and rail.

There are 3.12 million tractor-trailer drivers in the United States. The entire trucking industry employs more than 9 million people. Trucks annually transport 6 billion tons of freight, representing 63 percent of the total domestic tonnage shipped. There are 540,000 trucking companies in the U.S., and 80 percent of those have 20 or fewer trucks. The types of vehicles carrying hazardous materials on the Nation's highways range from cargo tank trucks to conventional tractor-trailers and flatbeds that carry large portable tank containers.

In 2000, there were 17,347 hazardous materials incidents related to transportation in the United States, 14,861 via highway transportation. These incidents are mostly minor releases of chemicals; only 244 incidents caused injuries, and there were 13 deaths.

Since the events of September 11, 2001, a number of legislative proposals have been introduced to address terrorism and the prevention of terrorist acts within the United States. I am pleased to report that the Commerce Committee has addressed security concerns in a bipartisan manner in all modes of transportation. On November 19, 2001, the President signed into law S. 1447, the Aviation Security Act, P.L. 107–71. On August 2, 2001, the Commerce Committee favorably reported S. 1214, the Port and Maritime Security Act, and on October 17, 2001, the Commerce Committee unanimously approved S. 1550, the Rail Security Act. Both of these measures are awaiting consideration by the Senate.

This legislation which addresses the important issue of the safety of hazardous materials transportation on our Nation's highways. This legislation should be considered as soon as possible. We must ensure the hazardous materials transported over our Nation's roads are carried by qualified drivers. Our legislation accomplishes this in a manner that provides clear and consistent requirements for licensing with minimum bureaucratic red tape and delay in the issuance of licenses to eligible drivers.

I would request that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1750

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Hazmat Endorsement Requirements Act''.

SEC. 2. LIMITATION ON ISSUANCE OF HAZMAT LICENSES.

(a) IN GENERAL.—Chapter 313 of title 49, United States Code, is amended by adding at the end the following:

''§ 31318. Issuance, renewal, upgrade, transfer, and periodic check of hazmat licenses

''(a) IN GENERAL.—A State may not issue, renew, upgrade, or transfer a hazardous materials endorsement for a commercial driver's license to any individual authorizing that individual to operate a commercial motor vehicle transporting a hazardous material in commerce unless the Secretary of Transportation has determined that the individual does not pose a security risk warranting denial of the endorsement or license. Each State shall implement a program under which a background records check is requested—

''(1) whenever a commercial driver's license with a hazardous materials endorsement is to be issued, renewed, upgraded, or transferred; and

''(2) periodically (as prescribed by the Secretary by regulations) for all other individuals holding a commercial driver's license with a hazardous materials endorsement.

''(b) DETERMINATION OF SECURITY RISK.—

''(1) IN GENERAL.—An individual may not be denied a hazardous materials endorsement for a commercial driver's license under subsection (a) unless the Secretary determines that individual—

''(A) in the 10-year period ending on the date of the background investigation, was convicted (or found not guilty by reason of insanity) of an offense described in section 44936(b)(1)(B) of this title (disregarding the matter in clause (xiv)(IX) after '1 year,');

''(B) is described in section 175b(b)(2) of title 18, United States Code; or

''(C) may be denied admission to the United States or removed from the United States under subclause (IV), (VI), or (VII) of section 212(a)(3)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)).

''(2) MITIGATING CIRCUMSTANCES.—In making a determination under paragraph (1), the Secretary shall give consideration to the circumstances of any disqualifying act or offense, restitution made by the individual, Federal and State mitigation remedies, and other factors from which it may be concluded that the individual does not pose a security risk warranting denial of the license or endorsement.

''(3) APPEALS PROCESS.—The Secretary shall establish an appeals process under this section for individuals found to be ineligible for a hazardous materials endorsement for a commercial driver's license that includes notice and an opportunity for a hearing.

''(c) BACKGROUND RECORDS CHECK.—

''(1) IN GENERAL.—Upon the request of a State regarding issuance of a hazardous materials endorsement for a commercial driver's license to an individual, the Attorney General shall—

''(A) conduct a background records check regarding the individual;

''(B) take appropriate criminal enforcement action required by information developed or obtained in the course of the background check; and

''(C) upon completing the background records check, notify the Secretary of Transportation of the completion and results of the background records check.

''(2) SCOPE.—A background records check regarding an individual under this subsection shall consist of the following:

''(A) A check of the relevant criminal history data bases.

''(B) In the case of an alien, a check of the relevant data bases to determine the status of the alien under the immigration laws of the United States.

''(C) As appropriate, a check of the relevant international data bases through Interpol-U.S. National Central Bureau or other appropriate means.

''(D) Review of any other national security-related information or data base identified by the Attorney General for purposes of such a background records check.

''(3) SECRETARY TO NOTIFY STATE.—After making the determination required by subsection (b)(1), the Secretary of Transportation shall promptly notify the State of the determination.

''(d) REPORTING REQUIREMENT.—Each State shall submit to the Secretary of Transportation, at such time and in such manner as the Secretary may prescribe, such information as the Secretary may require, concerning each individual to whom the State issues a hazardous materials endorsement for a commercial driver's license.

''(e) RESTRICTIONS ON USE AND MAINTENANCE OF INFORMATION.—

''(1) FOIA NOT TO APPLY.—Information obtained by the Attorney General or the Secretary of Transportation under this section may not be made available to the public under section 552 of title 5, United States Code.

''(2) CONFIDENTIALITY.—Any information other than criminal acts or offenses constituting grounds for disqualification under subsection (b)(1) shall be maintained confidentially by the Secretary and may be used only for making determinations under this section.

''(f) RENEWAL WAIVER FOR BACKGROUND CHECK DELAYS.—The Secretary shall provide a waiver for State compliance with the requirements of subsection (a) for renewals to the extent necessary to avoid the interruption of service by a license holder while a background check is being completed.

''(g) DEFINITIONS.—In this section:

''(1) HAZARDOUS MATERIALS.—The term 'hazardous material' means—

''(A) a substance or material designated by the Secretary under section 5103(a) of this title for which the Secretary requires placarding of a commercial motor vehicle transporting it in commerce; and

''(B) a substance or material, including a substance or material on the Centers for Disease Control's list of select agents, designated as a hazardous material by the Secretary under procedures to be established by the Secretary.

''(2) ALIEN.—The term 'alien' has the meaning given the term in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)).''.

(b) ENFORCEMENT.—Section 31311(a) of title 49, United States Code, is amended by adding at the end the following:

''(21) The State shall comply with the requirements of section 31318.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 31305(a)(5)(C) of title 49, United States Code, is amended by striking ''section 5103a'' and inserting ''section 31318''.

(2) The chapter analysis for chapter 313 is amended by adding at the end the following:

''31318. Limitation on issuance of hazmat licenses''.

(3) Chapter 51 of title 49, United States Code, is amended—

(A) by striking section 5103a; and

(B) by striking the item in the chapter analysis relating to section 5103a.

(4) Section 1012(c) of the USA PATRIOT Act of 2001 is amended by striking ''section 5103a'' and inserting ''section 31318''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on October 26, 2001.

(2) LIMIT ON RETROACTIVITY.—Notwithstanding paragraph (1), no enforcement action shall be taken against a State under section 31311 (a) (21) of title 49, United States Code, for any act committed, or failure to act that occurred, in violation of that section before the effective date of the interim final rule prescribed by the Secretary of Transportation under section 31318 of title 49, United States Code.

(3) INTERIM FINAL RULE AUTHORITY.—The Secretary of Transportation shall issue an interim final rule as a temporary regulation under section 31318 of title 49, United States Code, as soon as practicable after the date of enactment of this Act without regard to the provisions of chapter 5 of title 5, United States Code. The Secretary shall initiate a rulemaking in accordance with such provisions as soon as practicable after the date of enactment of this Act. The final rule issued pursuant to that rulemaking shall supersede the interim final rule promulgated under this paragraph.

SEC. 3. PROHIBITION ON OPERATING WITHOUT PROPER HAZMAT ENDORSEMENT OR LICENSE.

(a) IN GENERAL.—Chapter 313 of title 49, United States Code, is further amended by adding at the end the following:

''§ 31319. Prohibition on unauthorized transportation of hazardous materials

''(a) IN GENERAL.—Notwithstanding any provision of law, treaty, or international agreement to the contrary, after the effective date of the interim final rule promulgated by the Secretary of Transportation under section 2(d)(3) of the Hazmat Endorsement Requirements Act, no individual may operate a commercial motor vehicle transporting a hazardous material in commerce in the United States without a hazardous materials endorsement or a license authorizing that individual to operate a commercial motor vehicle transporting a hazardous material in commerce—

''(1) issued by a State in accordance with the requirements of section 31318 of this title; or

''(2) issued by the government of Canada or Mexico, or a political subdivision thereof, after a background check that is the same as, of substantially similar to, the background check required by section 31318.

''(b) PENALTY.—The Secretary shall by regulation prescribe the penalty for violation of subsection (a).''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 313 is amended by adding at the end the following:

''31319. Prohibition on unauthorized transportation of hazardous materials''.

SEC. 4. PENALTY FOR FRAUDULENT ISSUANCE OR RENEWAL OF COMMERCIAL DRIVER'S LICENSE.

(a) IN GENERAL.—Chapter 313 of title 49, United States Code, is further amended by adding at the end the following:

''§ 31320. Penalty for fraudulent issuance, renewal, upgrade, or transfer of commercial driver's license.

''Any person who knowingly issues, obtains, or knowingly facilitates the issuance, renewal, upgrade, transfer, or obtaining of, a commercial driver's license or an endorsement for a commercial driver's license knowing the license or endorsement to have been wrongfully issued or obtained, or issued, renewed, upgraded, transferred, or obtained through the submission of false information or the intentional withholding of required information is guilty of a Class E felony punishable by a fine, imprisonment, or both as provided in title 18, United States Code.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 313 is amended by adding at the end the following:

''31320. Penalty for fraudulent issuance of renewal of commercial driver's license''.

SEC. 5. MOTOR CARRIER SECURITY REPORT.

(a) IN GENERAL.—

(1) IN GENERAL.—The Secretary of Transportation shall assess the security risks associated with motor carrier transportation and develop prioritized recommendations for—

(A) improving the security of hazardous materials shipments by motor carriers, including shipper responsibilities;

(B) using biometrics or other identification systems to improve the security of motor carrier transportation;

(C) technological advancements in the area of information access and transfer for the purpose of identifying the location of hazmat shipments and facilitating the availability of safety and security information; and

(D) reducing other significant security related risks to public safety and interstate commerce, taking into account the impact that any proposed security measure might have on the provision of motor carrier transportation.

(2) EXISTING PRIVATE AND PUBLIC SECTOR EFFORTS.—The assessment shall include a review of any actions already taken to address identified security issues by both public and private entities.

(b) CONSULTATION; USE OF EXISTING RESOURCES.—In carrying out the assessment required by subsection (a), the Secretary shall—

(1) consult with operators, drivers, safety advocates, and public safety officials (including officials responsible for responding to emergencies); and

(2) utilize, to the maximum extent feasible, the resources and assistance of the Transportation Research Board of the National Academy of Sciences.

(c) REPORT.—

(1) CONTENTS.—Within 180 days after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report, without compromising national security, containing—

(A) the assessment and prioritized recommendations required by subsection (a);

(B) any proposals the Secretary deems appropriate for providing Federal financial, technological, or research and development to assist carriers and shippers in reducing the likelihood, severity, and consequences of deliberate acts of crime or terrorism toward motor carrier employees, shipments, or property; and

(C) data on the number of shipments and type of hazardous materials for which placarding is required for transport by motor carriers in the United States, including the transport of hazardous materials shipments by Canadian or Mexican motor carriers with authority to enter into the United States.

(2) FORMAT.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary.

SEC. 6. STUDY.

The Secretary of Transportation shall conduct research and operational testing to determine the feasibility, costs, and benefits of requiring motor carriers transporting certain high-risk hazardous materials, as determined by the Secretary, to install ignition or engine locking devices, silent alarms, satellite technology, or other mechanisms to increase the security associated with the transportation of such shipments by motor carriers. The Secretary may conduct a pilot program to assess such devices.

Mr. MCCAIN. Mr. President, I am pleased to join with Senators HOLLINGS, BREAUX, and SMITH in introducing the Hazmat Endorsements Requirement Act. The legislation we are introducing today is in large part a technical correction proposal to address Section 1012 of the USA PATRIOT Act, enacted October 26, 2001. Today's bill is designed to fill in a few of the gaps of the new law with respect to commercial drivers licenses and hazardous materials endorsements and to provide guidance to the Department of Transportation and the States on how to implement the new requirements.

The safe transport of hazardous materials is of critical importance to both our nation's economy and public safety. The events of September 11 have led to an even greater awareness of the necessity of ensuring hazardous cargo is transported in a manner that provides the highest level of safety and security possible. This bill would help improve the safety and security of hazardous materials transported on our roads and highways by ensuring the driver of such loads is not a risk to national security.

Annually, more than four billion tons of hazardous materials, an estimated 800,000 hazardous materials shipments daily, are transported by land, sea, and air in the United States. While hazardous materials transportation involves all transportation modes, truck transport typically accounts for the majority of all hazardous materials shipments, although the tonnage transported is more equally divided between truck and rail. The types of vehicles carrying hazardous materials on the nation's highways range from cargo tank trucks to conventional tractor-trailers and flatbeds that carry large portable tank containers. The shipped materials are used in thousands of commercial manufactured products and they include: chlorine for water treatment; ammonia for fertilizers; plastics; home siding materials; battery casings; leather finishes; fireproofing agents for textiles; and, motor vehicle gasoline.

The hazardous materials industry has a notable safety record, in large part due to the safety efforts of the individuals and companies involved in transporting hazardous materials. On average, only 10 to 15 fatalities are attributed annually to releases of hazardous materials in transportation.

The Commercial Motor Vehicle Safety Act of 1986 was enacted in an effort to ensure that drivers of large trucks and buses are qualified to operate such vehicles and to remove unsafe and unqualified drivers from the highways. The 1986 Act, which created the Commercial Driver's License Program, retained the state's right to issue a driver's license, but established minimum national standards which states must meet when licensing commercial motor vehicle, CMV, drivers.

The CDL program places requirements on the CMV driver, the employing motor carrier and the States. Drivers who operate special types of vehicles or who transport passengers or hazardous materials need to pass additional tests to obtain specific endorsements to permit such transport on their CDL.

Since 1986, over 10.5 million drivers have obtained a CDL, and almost 2.5 million of those drivers have received hazardous materials endorsements. The law has not required criminal background checks for applicants seeking CDLs. However, section 1012 of the USA PATRIOT Act now requires any driver of a commercial motor vehicle who transports hazardous materials to have a criminal background check prior to being issued a commercial drivers license, CDL. That requirement became effective upon the enactment of that law in October.

Both Senator HOLLINGS and I strongly support the intent of the background check requirement. Unfortunately, the Senate Commerce, Science, and Transportation Committee, with jurisdiction over the CDL program and hazardous materials transportation, did not have an opportunity to offer our recommendations to the provision in the USA PATRIOT Act due to procedural agreements at the time that legislation was approved by the Senate. Therefore, the measure we are introducing today provides technical modifications to section 1012 and would ensure the Department of Transportation, the States, and the drivers of commercial motor vehicles have a very clear direction with respect to the requirements associated with a hazardous materials endorsement.

Through Senator HOLLINGS leadership, we have sought input on this issue from all interested parties, including the administration, the states, public safety officials, commercial motor vehicle drivers, and motor carriers. We believe the provisions contained in this legislation will aid the administration and all interested parties by providing a clear understanding of the requirements associated with granting a license permitting a driver to transport hazardous cargo.

I urge my colleagues' timely consideration of this important legislation. We should take expeditious action to ensure the hazardous materials transported over our nation's roads is provided by qualified drivers. This must be accomplished in a manner that provides clear and consistent requirements for licensing with minimum bureaucratic red tape and delay in the issuance of licenses to eligible drivers.

By Mr. GRAMM (for himself, Mr. ENZI, Mr. BENNETT, Mr. BUNNING, and Mr. ALLARD):

S. 1751. A bill to promote the stabilization of the economy by encouraging financial institutions to continue to support economic development, including development in urban areas, through the provision of affordable insurance coverage against acts of terrorism, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. GRAMM. Mr. President, today I am joined by Senators ENZI, BENNETT, BUNNING, and ALLARD, in introducing the Terrorism Risk Insurance Act of 2001. This legislation will effectively, and in a straightforward way, address a crisis before us.

The crisis of which I speak is, like a tidal wave, currently away from the shore. Its movement is little noticed until it reaches the shore, when its consequences will be disastrous. That is, the consequences will be disastrous unless we prepare for them now. This legislation will do that.

Tidal waves are started by major seismic, earth shaking events. The earth shaking event that set this tidal wave in motion took place on September 11. Our Nation has responded admirably to the very visible problems caused by that day. We need to act just as admirably and effectively to address this hidden wave.

This hidden wave nearing our shores is the unavailability to terrorism risk insurance, an unavailability that will strike a little more than one month from now. Already we are receiving signs from all across the country that terrorism risk insurance is becoming increasing hard to get, in many cases it is not available at all even today. That is because insurance companies have to be able to estimate and measure risk in order to be able to provide for it, in order to be able to spread the risk, and to do that so that the insurance is affordable. Right now, in the short term, they cannot do that. If they cannot do that, they cannot offer the coverage without jeopardizing the solvency of their companies and the value of all their other insurance policies.

I want to make it clear that the problem before us is not one of the weakness of our insurance industry. It is a strong and vibrant industry. The industry needs no help, no bail out, no government assistance. And our bill would not give them any assistance, not one penny. Our bill addresses the needs of the insurance customers, the customers who, without this short term program, will not be able to find affordable insurance coverage against terrorism risks.

What does that mean for the economy? It means that without insurance, banks will not make loans where there is an uncovered risk, a risk that what they are lending the money for might be destroyed or harmed by a terrorist. It means that simple, ordinary, everyday business transactions that rely upon the security of underlying insurance coverage will not take place. That means that, without this legislation, come January 1 and the weeks leading up to it a brand new weight will be placed upon our economic recovery just as it starts to get going.

Will the insurance industry be able to figure out how to price this coverage? Yes. But history tells us that they will not figure it out right away. It will take a few months, maybe a couple of years.

The legislation we are introducing today is a program that will work to solve this problem in the mean time. It has been put together in close consultation with industry, with the consumers of insurance products and with the insurance companies. It has been put together in close consultation with the White House and the Treasury Department, and it enjoys their support.

This bill will not create any new, forever government program. It is short term in structure and intent. It is limited in its extent. It is designed to force the insurance industry to develop its own capacity to handle this new risk in a shortened period of time. From our discussions with the industry, with the state regulators, with insurance consumers, we believe that the industry will be up to the task.

Central to our proposal is that this legislation would not provide one penny of federal assistance to the insurance industry. No insurance company will get a penny out of this program. All of the benefits of this program would go to victims of terrorist activities.

The structure of our program is, for a two-year period that may be extended by the Secretary of the Treasury for only one additional year, to divide the terrorism risk with industry. We say to industry, here, you take the first risk. It is all yours. But we will define what that initial risk is so that you can price it. We will put limits on it. We will, for the period of this program, take over the currently unknown risk, the cataclysmic risk, while you develop the means for dealing with that new risk as well, as the industry always has.

Under our program, in the first two years, the industry has sole responsibility for the first $10 billion of risk from terrorist events. The industry then has ten percent of the risk above that to encourage them to manage and become familiar with managing the catastrophic risk, while the Federal Government will carry ninety percent of that catastrophic risk. If a third year is added, then the industry will have the sole responsibility for the first $20 billion of risk.

I believe that this is the most effective way not only to deal with this tidal wave approaching our shores but in fact to ward it off. The program is simple and understandable. The program does not have the victims of terrorism paying any extra premiums to the government for the coverage provided by the government. We don't make the suffering pay yet again. But we also do not expose the taxpayer to liability for frivolous lawsuits that might follow a terrorist event.

With the Federal Government providing this insurance benefit, we do not also want to open the Treasury doors to frivolous or predatory litigation. But these limitations are narrow, and they are limited to the life of the program. They end when the Federal program ends. The limitations are similar to the limitations in place today against lawsuits brought against the federal government. We cannot expose the taxpayer to punitive damages at

the same time that he is providing generous assistance to the victims of terrorism.

There are a few things that we need to do before adjournment of the Congress this year. I believe that this legislation, that addresses this very serious problem, should be on that sort list of things that we need to do.

I ask that the text of the bill and a summary of its highlights be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1751

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE.

This Act may be cited as the ''Terrorism Risk Insurance Act of 2001''.

SEC. 2. CONGRESSIONAL FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) property and casualty insurance firms are important financial institutions, the products of which allow mutualization of risk and the efficient use of financial resources and enhance the ability of the economy to maintain stability, while responding to a variety of economic, political, environmental, and other risks with a minimum of disruption;

(2) the ability of businesses and individuals to obtain property and casualty insurance at reasonable and predictable prices, in order to spread the risk of both routine and catastrophic loss, is critical to economic growth, urban development, and the construction and maintenance of public and private housing, as well as to the promotion of United States exports and foreign trade in an increasingly interconnected world;

(3) the ability of the insurance industry to cover the unprecedented financial risks presented by potential acts of terrorism in the United States can be a major factor in the recovery from terrorist attacks, while maintaining the stability of the economy;

(4) widespread financial market uncertainties have arisen following the terrorist attacks of September 11, 2001, including the absence of information from which financial institutions can make statistically valid estimates of the probability and cost of future terrorist events, and therefore the size, funding, and allocation of the risk of loss caused by such acts of terrorism;

(5) a decision by property and casualty insurers to deal with such uncertainties, either by terminating property and casualty coverage for losses arising from terrorist events, or by radically escalating premium coverage to compensate for risks of loss that are not readily predictable, could seriously hamper ongoing and planned construction, property acquisition, and other business projects, generate a dramatic increase in rents, and otherwise suppress economic activity; and

(6) the United States Government should provide temporary financial compensation to insured parties, contributing to the stabilization of the United States economy in a time of national crisis, while the financial services industry develops the systems, mechanisms, products, and programs necessary to create a viable financial services market for private terrorism risk insurance.

(b) PURPOSE.—The purpose of this Act is to establish a temporary Federal program that provides for a transparent system of shared public and private compensation for insured losses resulting from acts of terrorism in order to—

(1) protect consumers by addressing market disruptions and ensure the continued widespread availability and affordability of property and casualty insurance for terrorism risk; and

(2) allow for a transitional period for the private markets to stabilize, resume pricing of such insurance, and build capacity to absorb any future losses, while preserving State insurance regulation and consumer protections.

SEC. 3. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) ACT OF TERRORISM.—

(A) CERTIFICATION.—The term ''act of terrorism'' means any act that is certified by the Secretary, in concurrence with the Secretary of State, and the Attorney General of the United States—

(i) to be a violent act or an act that is dangerous to—

(I) human life;

(II) property; or

(III) infrastructure;

(ii) to have resulted in damage within the United States, or outside of the United States in the case of an air carrier described in paragraph (3)(A)(ii); and

(iii) to have been committed by an individual or individuals acting on behalf of any foreign person or foreign interest, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

(B) LIMITATION.—No act or event shall be certified by the Secretary as an act of terrorism if—

(i) the act or event is committed in the course of a war declared by the Congress; or

(ii) losses resulting from the act or event, in the aggregate, do not exceed $5,000,000.

(C) DETERMINATIONS FINAL.—Any certification of, or determination not to certify, an act or event as an act of terrorism under this paragraph shall be final, and shall not be subject to judicial review.

(2) BUSINESS INTERRUPTION COVERAGE.—The term ''business interruption coverage''—

(A) means coverage of losses for temporary relocation expenses and ongoing expenses, including ordinary wages, where—

(i) there is physical damage to the business premises of such magnitude that the business cannot open for business;

(ii) there is physical damage to other property that totally prevents customers or employees from gaining access to the business premises; or

(iii) the Federal, State, or local government shuts down an area due to physical or environmental damage, thereby preventing customers or employees from gaining access to the business premises; and

(B) does not include lost profits, other than in the case of a small business concern (as defined in section 3 of the Small Business Act (15 U.S.C. 632) and applicable regulations hereunder) in any case described in clause (i), (ii), or (iii) of subparagraph (A).

(3) INSURED LOSS.—The term ''insured loss''—

(A) means any loss resulting from an act of terrorism that is covered by any type of commercial or personal property and casualty insurance policy or endorsement, including business interruption coverage, issued by a participating insurance company if such loss—

(i) occurs within the United States; or

(ii) occurs to an air carrier (as defined in section 40102 of title 49, United States Code), regardless of where the loss occurs; and

(B) does not include any loss covered by any type of life or health insurance policy.

(4) PARTICIPATING INSURANCE COMPANY.—The term ''participating insurance company'' means any insurance company, including any subsidiary or affiliate thereof

(A) that—

(i) is licensed or admitted to engage in the business of providing primary insurance in any State; or

(ii) is not so licensed or admitted, if it is an eligible surplus line carrier listed on the Quarterly Listing of Alien Insurers of the National Association of Insurance Commissioners, or any successor thereto;

(B) that offers in all of its property and casualty insurance policies, coverage for insured losses;

(C) that offers property and casualty insurance coverage for insured losses that does not differ materially from the terms, amounts, and other coverage limitations applicable to losses arising from events other than acts of terrorism; and

(D) that meets any other criteria that the Secretary may reasonably prescribe.

(5) PERSON.—The term ''person'' means any individual, business or nonprofit entity (including those organized in the form of a partnership, limited liability company, corporation, or association), trust or estate, or a State or political subdivision of a State or other governmental unit.

(6) PROGRAM.—The term ''Program'' means the Terrorism Insured Loss Shared Compensation Program established by this Act.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(8) STATE.—The term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and each of the United States Virgin Islands.

(9) UNITED STATES.—The term ''United States'' means all States of the United States.

SEC. 4. TERRORISM INSURED LOSS SHARED COMPENSATION PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—There is established in the Department of the Treasury the Terrorism Insured Loss Shared Compensation Program.

(2) AUTHORITY OF THE SECRETARY.—Notwithstanding any other provision of State or Federal law, the Secretary shall administer the Program, and shall pay the Federal share of compensation for insured losses in accordance with subsection (c).

(b) CONDITIONS FOR FEDERAL PAYMENTS.—No payment may be made by the Secretary under subsection (c), unless—

(1) a policyholder that suffers an insured loss, or a person acting on behalf of that policyholder, files a claim with a participating insurance company;

(2) at the time of offer, purchase, and renewal of each policy covering an insured loss, the participating insurance company provides, as soon as practicable following the date of enactment of this Act, clear and conspicuous disclosure in the policy to the policyholder of the premium charged for insured losses covered by the Program and the Federal share of compensation for insured losses under the Program;

(3) the participating insurance company processes the claim for the insured loss in accordance with its standard business practices, and any reasonable procedures that the Secretary may prescribe; and

(4) the participating insurance company submits to the Secretary, in accordance with such reasonable procedures as the Secretary may establish—

(A) a claim for payment of the Federal share of compensation for insured losses under the Program;

(B) written verification and certification—

(i) of the underlying claim; and

(ii) of all payments made to policyholders for insured losses; and

(C) certification of its compliance with the provisions of this subsection.

(c) SHARED INSURANCE LOSS COVERAGE.—

(1) FEDERAL SHARE.—Subject to the limitations in paragraph (2), the Federal share of compensation under the Program, to be paid by the Secretary, shall be—

(A) for insured losses resulting from an act of terrorism occurring during the period beginning on the date of enactment of this Act and ending on December 31, 2002, 90 percent of the aggregate amount of all such losses in excess of $10,000,000,000;

(B) for insured losses resulting from an act of terrorism occurring during the period beginning on January 1, 2003 and ending on December 31, 2003, 90 percent of the aggregate amount of all such losses in excess of $10,000,000,000; and

(C) if the Program is extended in accordance with section 6, for insured losses resulting from an act of terrorism occurring during the period beginning on January 1, 2004 and ending on December 31, 2004, 90 percent of the aggregate amount of all such losses in excess of $20,000,000,000.

(2) CAP ON ANNUAL LIABILITY.—Notwithstanding paragraph (1), or any other provision of Federal or State law, if the aggregate insured losses exceed $100,000,000,000 during any period referred to in subparagraphs (A) and (B) of paragraph (1) (or the period referred to in subparagraph (C) of paragraph (1) if the Program is extended in accordance with section 6)—

(A) the Secretary shall not make any payment under this Act for any portion of the amount of such losses that exceeds $100,000,000,000; and

(B) participating insurance companies shall not be liable for the payment of any portion of the amount that exceeds $100,000,000,000.

(3) NOTICE TO CONGRESS.—The Secretary shall notify the Congress if estimated or actual aggregate insured losses exceed $100,000,000,000 in any period described in paragraph (1), and the Congress shall determine the procedures for and the source of any such excess payments.

(4) FINAL NETTING.—The Secretary shall have sole discretion to determine the time at which claims relating to any insured loss or act of terrorism shall become final.

(5) DETERMINATIONS FINAL.—Any determination of the Secretary under this subsection shall be final, and shall not be subject to judicial review.

(d) FUNDING.—

(1) PAYMENT AUTHORITY.—This Act constitutes payment authority in advance of appropriation Acts and represents the obligation of the Federal Government to provide for the Federal share of compensation for insured losses under the Program.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to pay the administrative expenses of the Program.

SEC. 5. GENERAL AUTHORITY AND ADMINISTRATION OF CLAIMS.

(a) GENERAL AUTHORITY.—The Secretary shall have the powers and authorities necessary to carry out the Program, including authority—

(1) to investigate and audit all claims under the Program; and

(2) to prescribe regulations and procedures to implement the Program.

(b) INTERIM RULES AND PROCEDURES.—The Secretary shall issue interim final rules or procedures specifying the manner in which—

(1) participating insurance companies may file, verify, and certify claims under the Program;

(2) the Secretary shall publish or otherwise publicly announce the applicable percentage of insured losses to be paid by participating insurance companies and the Federal share of compensation for insured losses under the Program;

(3) the Federal share of compensation for insured losses will be paid under the Program, including payments based on estimates of or actual aggregate insured losses;

(4) the Secretary may, at any time, seek repayment from or reimburse any participating insurance company, based on estimates of insured losses under the Program, to effectuate the insured loss sharing schedule and limitations contained in section 4;

(5) participating insurance companies that incur insured losses shall pay their pro rata share of insured losses in accordance with the schedule and limitations contained in section 4; and

(6) the Secretary will determine any final netting of payments for actual insured losses under the Program, including payments owed to the Federal Government from any participating insurance company and any Federal share of compensation for insured losses owed to any participating insurance company, to effectuate the insured loss sharing schedule and limitations contained in section 4.

(c) SUBROGATION RIGHTS.—The United States shall have the right of subrogation with respect to any payment made by the United States under the Program.

(d) CONTRACTS FOR SERVICES.—The Secretary may employ persons or contract for services as may be necessary to implement the Program.

(e) CIVIL PENALTIES.—The Secretary may assess civil money penalties for violations of this Act or any rule, regulation, or order issued by the Secretary under this Act relating to the submission of false or misleading information for purposes of the Program, or any failure to repay any amount required to be reimbursed under regulations or procedures described in section 5(b). The authority granted under this subsection shall continue during any period in which the Secretary's authority under section 6(d) is in effect.

SEC. 6. TERMINATION OF PROGRAM; DISCRETIONARY EXTENSION.

(a) TERMINATION OF PROGRAM.—

(1) IN GENERAL.—The Program shall terminate, on December 31, 2003, unless the Secretary—

(A) determines, after considering the report and finding required by this section, that the Program should be extended for one additional year, until December 31, 2004; and

(B) promptly notifies the Congress of such determination and the reasons therefore.

(2) DETERMINATION FINAL.—The determination of the Secretary under paragraph (1) shall be final, and shall not be subject to judicial review.

(3) TERMINATION AFTER EXTENSION.—If the Program is extended under paragraph (1), this Act is repealed, and the Program shall terminate, on December 31, 2004.

(b) REPORT TO CONGRESS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit a report to Congress—

(1) regarding—

(A) the availability of insurance coverage for acts of terrorism;

(B) the affordability of such coverage, including the effect of such coverage on premiums; and

(C) the capacity of the insurance industry to absorb future losses resulting from acts of terrorism, taking into account the profitability of the insurance industry; and

(2) that considers—

(A) the impact of the Program on each of the factors described in paragraph (1); and

(B) the probable impact on such factors and on the United States economy if the Program terminates on December 31, 2003.

(c) FINDING REQUIRED.—A determination under subsection (a) to extend the Program shall be based on a finding by the Secretary that—

(1) widespread market uncertainties continue to disrupt the ability of insurance companies to price insurance coverage for losses resulting from acts of terrorism, thereby resulting in the continuing unavailability of affordable insurance for consumers; and

(2) extending the Program for an additional year would likely encourage economic stabilization and facilitate a transition to a viable market for private terrorism risk insurance.

(d) CONTINUING AUTHORITY TO PAY OR ADJUST COMPENSATION.—Following the termination of the Program under subsection (a), the Secretary may take such actions as may be necessary to ensure payment, reimbursement, or adjustment of compensation for insured losses arising out of any act of terrorism occurring during the period in which the Program was in effect under this Act and as to which a determination has been made in accordance with the provisions of section 4 and regulations promulgated thereunder.

(e) STUDY AND REPORT ON SCOPE OF THE PROGRAM.—

(1) STUDY.—The Secretary, after consultation with the National Association of Insurance Commissioners, representatives of the insurance industry, and other experts in the insurance field, shall conduct a study of the potential effects of acts of terrorism on the availability of life insurance and other lines of insurance coverage.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report to the Congress on the results of the study conducted under paragraph (1).

SEC. 7 PRESERVATION OF STATE LAW.

Nothing in this Act shall affect the jurisdiction or regulatory authority of the insurance commissioner (or any agency or office performing like functions) of any State over any participating insurance company or other person—

(1) except as specifically provided in this Act; and

(2) except that—

(A) the definition of the term ''act of terrorism'' in section 3 shall be the exclusive definition for purposes of compensation for insured losses under this Act, and shall preempt any provision of State law that is inconsistent with that definition, to the extent that such provision of law would otherwise apply to any insurance policy relating to terrorism risk in the United States;

(B) during the period beginning on the date of enactment of this Act and ending on December 31, 2002, rates for terrorism risk insurance covered by this Act and filed with any State shall not be subject to prior approval or a waiting period, under any law of a State that would otherwise be applicable, except that nothing in this Act affects the ability of any State to invalidate a rate as excessive, inadequate, or unfairly discriminatory; and

(C) during the period beginning on the date of enactment of this Act and for so long as the Program is in effect as provided in Section 6 (including any period during which the Secretary's authority under Section 6(d) is in effect), books and records of any participating insurance company shall be provided, or caused to be provided, to the Secretary or his designee upon request by the Secretary or his designee notwithstanding any provision of the laws of any State prohibiting or limiting such access.

SEC. 8. SENSE OF THE CONGRESS.

It is the sense of the Congress that the insurance industry should build capacity and

aggregate risk to provide affordable property and casualty coverage for terrorism risk.

SEC. 9. PROCEDURES FOR CIVIL ACTIONS.

(a) FEDERAL CAUSE OF ACTION.—There shall exist a Federal cause of action for property damage, personal injury, or death arising out of or resulting from an act of terrorism, which shall be the exclusive cause of action and remedy for claims for property damage, personal injury, or death arising out of or resulting from an act of terrorism. All State causes of action of any kind for property damage, personal injury, or death otherwise available arising out of or resulting from an act of terrorism, are hereby preempted, except as provided in subsection (f).

(b) GOVERNING LAW.—The substantive law for decision in an action for property damage, personal injury, or death arising out of or resulting from an act of terrorism under this section shall be derived from the law, including applicable choice of law principles, of the State, or States determined to be required by the district court assigned under subsection (c), unless such law is inconsistent with or otherwise preempted by Federal law.

(c) FEDERAL JURISDICTION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, not later than 90 days after the occurrence of an act of terrorism, the Judicial Panel on Multidistrict Litigation shall assign a single Federal district court to conduct pretrial and trial proceedings in all pending and future civil actions for property damage, personal injury, or death arising out of or resulting from that act of terrorism.

(2) SELECTION CRITERIA.—The Judicial Panel on Multidistrict Litigation shall select and assign the district court under paragraph (1) based on the convenience of the parties and the just and efficient conduct of the proceedings.

(3) JURISDICTION.—The district court assigned by the Judicial Panel on Multidistrict Litigation shall have original and exclusive jurisdiction over all actions under paragraph (1). For purposes of personal jurisdiction, the district court assigned by the Judicial Panel on Multidistrict Litigation shall be deemed to sit in all judicial districts in the United States.

(4) TRANSFER OF CASES FILED IN OTHER FEDERAL COURTS.—Any civil action for property damage, personal injury, or death arising out of or resulting from an act of terrorism that is filed in a Federal district court other than the Federal district court assigned by the Judicial Panel on Multidistrict Litigation under paragraph (1) shall be transferred to the Federal district court so assigned.

(5) REMOVAL OF CASES FILED IN STATE COURTS.—Any civil action for property damage, personal injury, or death arising out of or resulting from an act of terrorism that is filed in a State court shall be removable to the Federal district court assigned by the Judicial Panel on Multidistrict Litigation under paragraph (1).

(d) APPROVAL OF SETTLEMENTS.—Any settlement between the parties of a civil action described in this section for property damage, personal injury, or death arising out of or resulting from an act of terrorism shall be subject to prior approval by the Secretary after consultation with the Attorney General.

(e) LIMITATION ON DAMAGES.—Punitive or exemplary damages shall not be available in any civil action subject to this section.

(f) CLAIMS AGAINST TERRORISTS.—Nothing in this section shall in any way limit the ability of any plaintiff to seek any form of recovery from any person, government or other entity that was a participant in, or aider and abettor of, any act of terrorism.

(g) OFFSET—In determining the amount of money damages available under this section, the court shall offset any compensation or benefits received or entitled to be received by the plaintiff or plaintiffs from any collateral source, including the United States or any Federal agency thereof, in response to or as a result of the act of terrorism.

(h) EFFECTIVE PERIOD.—This section shall apply only to actions for property damage, personal injury, or death arising out of or resulting from acts of terrorism that occur during the effective period of the Program, including, if applicable, any extension period under section 6.

SEC. 10. REPEAL OF THE ACT.

This Act shall be repealed at the close of business on the termination date of the Program under section 6(a), but the provisions of this section shall not be construed as preventing the Secretary from taking, or causing to be taken, such actions under sections 4(c)(4), (5), sections 5(a)(1), (c), (e), section 6(d), and section 9(d) of this Act and applicable regulations promulgated thereunder. Further, the provisions of this section shall not be construed as preventing the availability of funding under section 4(d) during any period in which the Secretary's authority under section 6(d) is in effect.

KEY PROVISIONS OF THE TERRORISM RISK INSURANCE ACT OF 2001

All property and casualty policyholders are covered, including those insured under workers compensation policies and those with business interruption coverage.

Federal tax dollars will be paid as compensation to insured victims of terrorist attacks, not to insurance companies.

The insurance industry would fully cover losses arising from certified acts of terrorism, up to $10 billion in each year. The government will provide compensation for 90 percent of losses exceeding $10 billion, with the insurance industry continuing to pay for 10 percent of the losses.

The program is temporary, expiring after two years. The Treasury Secretary has the option to extend the program for one additional year.

The Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General, will determine whether an event qualifies as a terrorist attack.

In order for property and casualty insurers to participate in the program, insurers are required to offer terrorism coverage to all of their policyholders under terms that are consistent with their other property and casualty policies.

Insurance companies are required to disclose to customers which portion of their premiums they are paying for terrorism risk coverage, apart from other property and casualty coverages.

Careful, narrow restrictions on lawsuit liability are included to protect taxpayer funds from being exposed to opportunistic, predatory assaults on the U.S. Treasury.

The State system of insurance regulation is preserved with very few exceptions. First, the definition of an ''act of terrorism'' under the bill will become the definition in every state. Also, the small number of states that require pre-approval of rate will be restrained from doing so far terrorism risk coverage during the first year. This does not, however, preempt a state insurance regulatory's ability to review and revise the rates once they are in effect. Finally, the Secretary of the Treasury would have access to the books and records of participating insurers in all States.

Mr. ENZI. Mr. President, today I join with Senators GRAMM, BUNNING, and BENNETT in introducing legislation that provides a temporary public-private partnership for terrorism insurance in the wake of the September 11 attacks. This bill provides a joint partnership between insurance companies and the Federal Government for the next 3 years in cases of terrorist attacks.

September 11 has proven to be the most expensive disaster to ever take place on American soil. With cost estimates ranging from $40 to $60 billion, the attacks have drained the capital reserves of some of the largest insurance companies in the world. In addition, as we know all too well, the risk for future attacks is very high. In the absence of this legislation, the insurance industry would be unable to pay the potentially extraordinary costs, and the Federal Government would likely be responsible for the entire costs. This is preemptive legislation.

I believe this legislation strikes the right balance between what the responsibilities should be between the insurance industry and the Federal Government. In each of the first 2 years, the insurance industry is responsible for the first $10 billion of any attack. By placing a $10 billion initial retention for the insurance industry, we ensure that the Federal Government does not get involved unless it is absolutely necessary.

After that, we agree the Federal Government should pay 90 percent of the remaining costs up to a $100 billion threshold. After the first 2 years, the Secretary of the Treasury will decide whether the industry is prepared to once again begin offering this type of coverage. If he believes they are not prepared, he may extend the program for 1 additional year.

This legislation also includes special provisions for small businesses which might be affected by terrorist attacks. A small business that is located in a building that is destroyed requires different treatment than a global corporation. Whereas a large, multinational corporation has offices all over the world with different lines of revenue, a small business could be eliminated by a single incident that would likely destroy all their equipment, possibly kill personnel, and virtually make it impossible for the business to continue. This bill allows for small businesses to recover lost profits and receive funding for business interruptions due to an attack.

I am sure that many of my colleagues have heard from their State insurance regulators the same as I have. My State insurance commissioner informs me that few, if any, of the new policies being submitted for next year's coverage offer terrorism insurance. With insurance being primarily regulated by the States, this has caused a backlog of filings from being approved and paperwork is quickly accumulating at the State level. We must act quickly to alleviate this backlog that will lead to uncertainty in the marketplace.

The legislation also includes very targeted liability provisions. These

provisions are extremely narrow and directed only at this specific program. Without these limitations, we would open the Federal Government's checkbook to every trial lawyer in America, and the American taxpayers would have unlimited liability. The trial lawyers were committed to not pursuing frivolous claims that resulted from September 11, and I certainly hope that they would continue their commitment if America is attacked again.

In closing, I would only like to add that I believe the insurance industry should be commended for the way in which they've handled the September 11 crisis. Despite losing many employees in the bombing, they were one of the first groups at the front of the line offering their assistance and support for the victims. To my knowledge, not a single company has attempted to withhold payment from this disaster. They have been most cooperative in working through the myriad proposals that have been circulated and their support has expedited this process.

I look forward to working with my colleagues to move this legislation before we adjourn.

By Mr. CORZINE (for himself, Ms. SNOWE, Ms. CANTWELL, Mr. DODD, Mr. LEAHY, and Mrs. MURRAY):

S. 1752. A bill to amend the Public Health Service Act with respect to facilitating the development of microbicides for preventing transmission of HIV and other sexually transmitted diseases; to the Committee on Health, Education, Labor, and Pensions.

Mr. CORZINE. Mr. President, I rise today to introduce legislation, the Microbicides Development Act of 2001. I am very pleased to be introducing this bipartisan bill along with my colleagues, Senators SNOWE, CANTWELL, DODD, LEAHY, and MURRAY. I extend my gratitude to Senator CANTWELL, in particular, for her support and assistance in the development of this legislation. Additionally, I applaud the efforts of my colleague in the House of Representatives, Republican Congresswoman CONNIE MORELLA of Maryland, for her leadership on this important issue. We all believe this initiative is vital to the pursuit of combating the global HIV/AIDS crisis.

As you know, tomorrow, December 1, is World AIDS Day. Twenty years ago, the Centers for Disease Control became aware of a virus that was claiming the lives of thousands of gay men in the United States. Throughout most of the 1980s, we thought of AIDS purely as a gay men's disease. Twenty years later, we find that we couldn't have been more wrong, as we have seen this disease spread globally to women, children, and heterosexual men, infecting and killing millions.

Today, women and children are being impacted by this epidemic at alarming rates. Every day, 6,300 women worldwide become infected with HIV. In fact, women now represent the fastest growing group of new HIV infections in the United States. AIDS is the fourth leading cause of death among women aged 25 to 44 in this country. Unfortunately, I have seen the devastation that this disease is having on women, as New Jersey has the Nation's fourth highest HIV/AIDS infection rate among women, and the second highest infection rate among all adults.

Despite this growing trend, however, there exists absolutely no HIV or STD prevention method that is within a woman's personal control. Condom use must be negotiated with a partner. We are all aware that for too many women, particularly low-income women in the developing world who reply upon a male partner for economic support, there is no power of negotiation. We know these women are at risk, yet, we expect them to protect themselves without any tools.

Today we have the opportunity to invest in groundbreaking research that can produce these tools, and ultimately, empower women. Microbicides are self-administered products that women could use to prevent transmission of STDs, including HIV/AIDS. I say ''could,'' because due to insufficient research investments, no microbicides have been brought to market. This legislation would encourage federal investments for microbicide research through the establishment of programs at the National Institutes for Health, NIH, and the Centers for Disease Control and Prevention, CDC.

In addition to investing new resources in microbicide research, the Microbicides Development Act will expedite the implementation of the NIH's 5-year strategic plan for microbicide research, as well as expand coordination among Federal agencies already involved in this research, including NIH, CDC, and the United States Agency on International Development, USAID. The bill also establishes Microbicide Research and Development Teams at the NIH. These teams will bring together public and private scientists and resources to research and development microbicides for the prevention of HIV and STD infection.

The Microbicides Development Act of 2001 has the potential not only to save millions of lives, but also to save billions in health care costs. Every year, 15 million new HIV and other STD infections occur among Americans aged 15 and older. The direct cost to the U.S. economy of STDs and HIV infection is approximately $8.4 billion. When the indirect costs, such as lost productivity, are included, that figure rises to an estimated $20 billion.

While new therapies are being developed to prolong the lives of individuals infected with HIV/AIDS—and we must continue developing new therapies—only prevention can truly ensure the safety and health of those vulnerable to infection. If we do not pay a small price now to invest in new prevention methods, we will pay a much higher price later.

Federal support for microbicide research is crucial. Numerous small biotechnology companies and university researchers are actively engaged in microbicide research, but they are almost totally dependent on public-sector grants to continue their work and to test their products. Existing public sector grants for microbicides, however, are too small and too short-term to move product leads forward. According to the Alliance for Microbicide Development and other health advocates, in order to bring a microbicide to market within the next 5 years, current Federal investments in microbicide research should be increased to $75 million this year. The NIH currently invests only $25 million a year, or 1 percent of its total HIV/AIDS budget, in such important research.

This legislation will make microbicide research the priority it should be, a priority the Federal Government must have if it expects to save the lives of women and their children worldwide, who, 20 years after the first AIDS death, will otherwise become victims of a preventable disease.

In closing, I would like to request that an opinion piece written by United Nations' Secretary General Kofi Annan that appeared in the Washington Post yesterday be included in the RECORD. In his comments recognizing World AIDS Day, Secretary Annan reiterates the importance of investing in new prevention methods as we continue to fight against AIDS.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NO LETTING UP ON AIDS

(By Kofi Annan)

Every day more than 8,000 people die of AIDS. Every hour almost 600 people become infected. Every minute a child dies of the virus. Just as life—and death—goes on after Sept. 11, so must we continue our fight against the HIV/AIDS epidemic. Before the terrorist attacks two months ago, tremendous momentum had been achieved in the fight. To lose it now would be to compound one tragedy with another.

New figures, released in advance of World AIDS Day, Dec. 1, show that more than 40 million people are now living with the virus. The vast majority of them are in sub-Saharan Africa, where the devastation is so acute that it has become one of the main obstacles to development. But parts of the Caribbean and Asia are not far behind, and the pandemic is spreading at an alarming rate in Eastern Europe.

For too long, global progress in facing up to AIDS was painfully slow, and nowhere near commensurate with the challenge. But in the past year, for much of the international community the magnitude of the crisis has finally begun to sink in. Never, in the two long decades that the world has faced this growing catastrophe, has there been such a sense of common resolve and collective possibility.

Public opinion has been mobilized by the media, nongovernmental organizations and activists, by doctors and economists and by people living with the disease. Pharmaceutical companies have made their AIDS drugs more affordable in poor countries, and a growing number of corporations have created programs to provide both prevention

and treatment for employees and the wider community. Foundations are making increasingly imaginative and generous contributions, both financial and intellectual—in prevention, in reducing mother-to-child transmission, in the search for a vaccine.

In a growing number of countries, effective prevention campaigns have been launched. There has been an increasing recognition, among both donors and the most affected countries, of the link between prevention and treatment. There has also been a new understanding of the particular toll AIDS is taking on women—and of the key role they have in fighting the disease.

The entire United Nations family is fully engaged in this fight, working to a common strategic plan and supporting country, regional and global efforts through our joint program, UNAIDS. Perhaps most important, a new awareness and commitment have taken hold among governments—most notably in Africa.

Last June the membership of the United Nations met in a special session of the General Assembly to devise a comprehensive and coordinated global response to the AIDS crisis.

They adopted a powerful declaration of commitments, calling for a fundamental shift in our response to HIV/AIDS as a global economic, social and development challenge of the highest priority. They reaffirmed the pledge, made by world leaders in their Millennium Declaration, to halt and begin to reverse the spread of AIDS by 2015. And they set out a number of further ambitious but realistic time-bound targets and goals. Among them were commitments to reach, by 2005, an overall target of annual expenditure on AIDS of $7 billion to $10 billion per year in low- and middle-income countries; to ensure, by 2005, that a wide range of prevention programs are available in all countries; and to support the establishment of a fund to help finance an urgent and expanded response to the epidemic.

Only seven months after I proposed this new international facility to support the global fight against AIDS and other infectious diseases, pledges to the fund stand at more than $1.5 billion. The fund cannot be the only channel of resources for a full-scale global response to AIDS. But what is most heartening is the range of pledges that have been made: from the world's wealthiest nations—starting with the founding contribution from the United States last May—but also from some of its poorest, as well as from foundations, corporations and private individuals.

It is clear that we have the road map, the tools and the knowledge to fight AIDS. What we must sustain now is the political will. Life after Sept. 11 has made us all think more deeply about the kind of world we want for our children. It is the same world we wanted on Sept. 10—a world in which a child does not die of AIDS every minute.

Ms. CANTWELL. Mr. President, I rise today with my colleagues Senators CORZINE and SNOWE to introduce the Microbicides Development Act of 2001, and to recognize tomorrow, December 1, as World AIDS Day. As we reflect on the last 20 years of battling this disease, we need to remember the thousands of people here in the United States and the millions worldwide afflicted by HIV and AIDS.

It is hard to believe that it has been 20 years since we first learned of the disease that would come to be known as Acquired Immune Deficiency Syndrome or AIDS. In those 20 years medical and pharmaceutical advancements have made HIV/AIDS more manageable for some, but a cure is yet to be found. And in those 20 years since we first learned of AIDS we have begun to see a changing face of AIDS across the country, as well as in my home State of Washington.

Consider these facts.

Twenty years ago, HIV infections attributed to sex between gay men accounted for nearly all HIV/AIDS cases in the country. Today, more than half— 54 percent—of HIV infections are in different population groups: straight or bisexual women, or straight men. In fact, between the beginning of the AIDS epidemic and today, the proportion of women newly infected with HIV more than tripled— from 7 percent to 23 percent.

Twenty years ago, HIV infections were primarily appearing in Caucasians. Today, HIV/AIDS is disproportionately affecting communities of color. Approximately two-thirds of all women and over 40 percent of all men reported with AIDS were black. Although Hispanics represent 13 percent of the population, they accounted for 19 percent of new HIV infections in 1999.

And one in four Washingtonians infected with HIV is under aged 22. Half are under 25. These are people that have grown up with the disease—they should be educated on prevention and they should know how to take care of themselves. But somehow complacency—whether from the new drugs and medical treatment—or from disease ennui—has replaced the message we want to be sending.

We have long known that the only way to stop the advance of this terrible disease is through a coordinated and comprehensive approach to education, prevention and treatment. As a community we need to refocus our efforts and not allow complacency—especially among populations not traditionally associated with HIV/AIDS —to dictate the future. There must be a continued commitment to he eradication of this terrible disease.

Before the end of today, several hundred people will become infected with AIDS. In these days of fear of Anthrax and discussions of bioterrorism we should not loose sight of the worst natural pandemic in human history. Twenty years after the U.S. Centers for Disease Control and Prevention first identified AIDS, I am afraid that this vast tragedy has become a little too familiar, and we may have become a little too complacent.

The HIV/AIDS epidemic rages on, from Asia and Eastern Europe to the Caribbean and most tragically Africa. As AIDS has become an international crisis, its face has become that of humanity itself. I fear that AIDS may become the single greatest obstacle to global development humanity has ever faced.

And while it is easy to become discouraged in the face of such a huge, heartbreaking calamity—the truth is we know how to stop the spread of AIDS. Through a coordinated and comprehensive program of education, prevention and treatment, we know that the epidemic can be greatly reduced in scope.

To that end, I'm proud to join Senator CORZINE in sponsoring the Microbicides Development Act of 2001. This bill increases authorization of funding for microbicide research at the National Institutes of Health and the CDC.

Microbicides represent a novel and virtually unexplored area in STD/HIV research. Microbicides can kill or inactivate the bacteria and viruses that cause STDs and AIDS. Despite their huge potential, microbicide research is underrepresented in the federal HIV research portfolio. Currently, Microbicide development represents only one percent of federal research in HIV/AIDS.

Microbicides are unique in that they are under development as topical products—a cream or gel. This gives them a high degree of versatility and user control. This is especially important for women who are unable to or cannot ask their partner to use a condom to prevent spreading HIV. Development of a dependable, affordable and easy to use microbicide would represent a major breakthrough in AIDS prevention—allowing populations like commercial sex workers to have more control over their own bodies. It is extremely important to prevent HIV transmission and serve women, a population increasingly at risk for HIV infection.

Microbicide development is a fertile but unexplored anti-HIV research area. Pharmaceutical companies have generally concentrated on high return disease treatments and government-sponsored vaccine programs. While there are potential microbicides in the research and development pipeline, this bill encourages the pursuit of these promising compounds by increasing authorization for the current federal investment in microbial research in the next fiscal year.

Through this bill, we will emphasize the work at the National Institutes of Health and the Centers for Disease Control and Prevention to develop products to prevent the transmission of AIDS for women. I can think of no new direction in AIDS prevention that has a larger potential—we know that the best preventatives must be easy to use and controlled by the user. I expect that microbicides will fill a new role in preventing the spread of HIV and AIDS. I thank Senator CORZINE for his leadership on this issue and I urge my colleagues to support this bill.

By Mr. BINGAMAN (for himself, Mr. CAMPBELL, and Ms. CANTWELL):

S. 1753. A bill to amend title XIX of the Social Security Act to include medical assistance furnished through

an urban Indian health program operated by an urban Indian organization pursuant to a grant or contract with the Indian Health Service under title V of the Indian Health Care improvement Act in the 100 percent Federal medical assistance percentage applicable to the Indian Health Service; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, the legislation I am introducing today with Senators CAMPBELL and CANTWELL entitled the ''Urban Indian Health Medicaid Amendments Act of 2001'' would raise the Medicaid matching rate to 100 percent for Medicaid-covered services provided to Medicaid-eligible American Indians and Alaska Natives at urban Indian health programs.

The legislation eliminates the discrepancy in current law that provides for a higher matching rate to states for care delivered in an non-urban outpatient facility operated by the Indian Health Service, or IHS, or by a tribe or a tribal organization under contract with IHS compared to the lower matching rate to an urban Indian program funded by the IHS to deliver services to Medicaid-eligible Native Americans residing in urban areas.

The bill would not alter current policy toward facilities operated by the IHS or by tribes or tribal organizations. As under current law, the Federal Government would continue to pay 100 percent of the cost of treating Medicaid-eligible American Indian or Alaska Natives at an IHS hospital or tribal clinic. Similarly, the bill would not alter the amounts paid to IHS hospitals or tribal clinics for treating Medicaid patients.

Instead, the bill simply extends the 100 percent federal matching rate to the costs of treatment of Medicaid-eligible Native Americans in urban Indian health programs and corrects the inconsistency in treatment under current Medicaid law.

The urban Indian health program was first authorized in 1976 in Title V of the ''Indian Health Care Improvement Act.'' According to a report entitled ''Urban Indian Health'' by the Kaiser Family Foundation that was released this month, ''The purpose of the Title V program is to make outpatient health services accessible to urban Indians, either directly or by referral. These services are provided through non-profit organizations, controlled by urban Indians, that receive funds under contract with the IHS.''

In fact, the Federal Government, through the IHS, currently funds 36 urban Indian health programs in 20 states: Arizona, 3; California, 8; Colorado, 1; Illinois, 1; Kansas, 1; Massachusetts, 1; Michigan, 1; Minnesota, 1; Montana, 5; Nebraska, 1; Nevada, 1; New Mexico, 1; New York, 1; Oklahoma, 2; Oregon, 1; South Dakota, 1; Texas, 1; Utah, 1; Washington, 2; and Wisconsin, 2.

These programs are nonprofit organizations that provide outpatient primary care services, and in some cases, just referral services, to urban Indians, many of whom are eligible for Medicaid. In FY 2001, Congress appropriated $29.9 million, or just 1 percent of the Indian Health Service budget, in discretionary funding to these programs. These programs are expected to supplement this direct funding with revenues from third party payers, such as private insurance and Medicaid.

Urban Indian health programs may participate as providers in their state's Medicaid program and receive payment for services covered by Medicaid that are furnished to Medicaid-eligible urban Indians. Whatever amount the state pays the urban Indian program for a Medicaid patient visit, the Federal Government will match the State's expenditure at the State's regular Federal Medicaid matching rate, or FMAP.

In contrast, if an American Indian or Alaska Native who is eligible for Medicaid receives primary care services covered by Medicaid at an outpatient facility operated by the IHS or by a tribe or a tribal organization under contract with the IHS, the Federal Government will pay 100 percent of the cost of the service.

The policy rationale for this enhanced matching rate is that because Indian health is a Federal responsibility, states should not have to share in the costs of providing Medicaid services to Native American beneficiaries receiving care through facilities operated directly by the Federal Government's IHS or by tribes or tribal organizations on behalf of the IHS. This same rationale applies to Medicaid-covered services provided by urban Indian programs funded by the IHS to deliver services to Medicaid-eligible Native Americans residing in urban areas. Unfortunately, the Medicaid statute does not reflect this policy. This legislation would address this inequity.

Moreover, as a report by the Kaiser Family Foundation entitled ''Urban Indian Health'' released this month adds, ''Extension of this 100 percent matching rate to services provided by Title V providers to Medicaid-eligible urban Indians may give State Medicaid programs an incentive to treat these 'safety net' clinics more favorably in both a fee-for-service and managed care context.''

The proposal would simply amend the third sentence in section 1905(b) of the Social Security Act to read as follows (new language in italic):

Notwithstanding the first sentence of this section, the Federal medical assistance percentage shall be 100 per centum with respect to amounts expended as medical assistance for services which are received through an Indian Health Service facility *or program* whether operated by the Indian Health Service or by an Indian tribe or tribal organization *or by an urban Indian health program* (as defined in section 4 of the Indian Health Care Improvement Act).

The amendment would be effective for Medicaid services furnished on or after October 1, 2001. Under this language, the enhanced 100 percent matching rate would apply only to services furnished directly ''through'' an urban Indian health program, not by referral. Note that the amendment would not determine the particular amount the state Medicaid program pays an urban Indian health program for a particular service, such as a patient visit. The language only affects the Federal Government's share of that payment amount.

Despite the fact that recent Census figures indicate that 57 percent of the 2.5 million people that identify themselves solely as American Indian and Alaska Native live in metropolitan areas, including 17,444 in Albuquerque, New Mexico, the IHS budget only provides 1 percent of its funding to urban Indian health programs. We should and must begin to take steps to eliminate such dramatic discrepancies.

As a result, within the Medicaid program, just as the Federal Government reimburses States 100 percent for the costs of services delivered to Native American beneficiaries receiving care through facilities operated directly by the Federal Government's IHS or by tribes or tribal organizations on behalf of the IHS, the same should apply to urban Indian health programs. This simple, yet important bill will eliminate the disparity and I urge its swift passage.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1753

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Urban Indian Health Medicaid Amendments Act of 2001''.

SEC. 2. INCLUSION OF MEDICAL ASSISTANCE FURNISHED THROUGH AN URBAN INDIAN HEALTH PROGRAM IN 100 PERCENT FMAP.

(a) IN GENERAL.—The third sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended—

(1) by inserting ''or program'' after ''facility'';

(2) by striking ''or by'' and inserting '', by''; and

(3) by inserting '', or by an urban Indian organization pursuant to a grant or contract with the Indian Health Service under title V of the Indian Health Care Improvement Act'' before the period.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on October 1, 2002.

By Mr. LEAHY (for himself, Mr. HATCH, Mr. REID, and Mr. BENNETT):

S. 1754. A bill to authorize appropriations for the United States Patent and Trademark Office for fiscal years 2002 through 2007, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I am pleased to join with Senators HATCH, REID, and BENNETT in the introduction of the Patent and Trademark Office

Authorization Act of 2002. Senator HATCH and I, as leaders of the Judiciary Committee, have had great success in working together to protect America's innovators and to protect our patent and trademark system.

This bill is another example of our bipartisan effort to strengthen America's future. By joining with Senators REID and BENNETT, this bill will send a strong message to America's innovators and inventors that the Congress intends to protect and enhance our patent system. The PTO serves a critical role in the promotion and development of commercial activity in the United States by granting patents and trademark registrations to our nation's innovators and businesses.

The costs of running the PTO are entirely paid for by fees collected by the PTO form users, individuals and companies that seek to benefit from patent and trademark protections. However, since 1992 Congress has diverted over $800 million of those fees for other government programs unrelated to the PTO.

This bill sends a strong message that Congress should appropriate to the PTO a funding level equal to these fees. The reason for this is simple: the creation of intellectual property by Americans, individuals and businesses, is a massive positive driving force for our economy and is a huge plus for our trade balance with the rest of the world. In recent years, the number of patient applications has risen dramatically, and that trend is expected to continue. Our patent examiners are very overworked, and emerging areas such as biotechnology and business method patents may overwhelm the system.

If fully implemented as intended, this bill can greatly assist the PTO in issuing quality patents more quickly which means more investment, more jobs and greater productivity for American businesses. Similarly, early federal registration of the name, logo, or symbol of a company or product is necessary to protect rights and avoid expensive litigation. Section 2 of the bill thus authorizes Congress to appropriate to the PTO, in fiscal years 2002 through 2007, an amount equal to the fees estimated by the Secretary of Commerce to be collected in each of the next five fiscal years. The Secretary shall make this report to the Congress by February 15 of each such fiscal year.

Section 3 of the bill directs the PTO to develop, in the next three years, an electronic system for the filing and processing of all patent and trademark applications that is user friendly and that will allow the Office to process and maintain electronically the contents and history of all applications. Of the amount appropriated under section 2, section 3 authorizes Congress to appropriate not more than $50 million in fiscal years 2002 and 2003 for the electronic filing system.

Third, the bill requires the PTO to develop a strategic plan to set forth for the methods by which the PTO will enhance patent and trademark quality, reduce pendency, and develop an effective electronic system for the benefit of filers, examiners, and the general public regarding patents and trademarks.

I am pleased that my colleagues in the other body, Congressmen COBLE and BERMAN, have introduced similar legislation. I am very concerned that the Bush Administration budget for FY 2002 planned to divert $207 million in PTO fees to programs outside the PTO. This diversion takes fees paid by inventors and businesses to secure patents or trademarks and uses them to promote unrelated programs. It does this at a time when the number of patent and trademark applications has increased by 50 percent since 1996, and while the ''waiting period,'' or pendency period, has increased 20 percent 1996. Even worse, the PTO estimates that the patent pendency period could increase to 38 months by 2006.

The bill also contains two sections which will clarify two provisions of current law and thus provide certainty and guidance to the PTO and for inventors and businesses.

Section 5 expands the scope of matters that may be raised during the reexamination process to a level which had been the case for many years. Let me explain the background. Congress established the patent reexamination system in 1980 for three purposes: to attempt to settle patent validity questions quickly and less expensively than litigation; to allow courts to rely on PTO expertise; and, third, to reinforce investor confidence in the certainty of patent rights by affording an opportunity to review patents of doubtful validity.

This system of encouraging third parties to pursue reexamination as an efficient method of settling patent disputes is still a good idea. However, by clarifying current law this bill increases the discretion of the PTO and enhances the effectiveness of the reexamination process. It does this by permitting the use of relevant evidence that was considered by the PTO, but not necessarily cited. Thus, adding this sentence to current law, which only allows for reexaminations when ''substantial new questions of patentability exist'', will help prevent the misuse of defective patents, especially those concerning business method patents.

It permits a reexamination based on prior art cited by an applicant that the examiner failed to adequately consider. Thus, this change allows the PTO to correct some examiner errors that it would not otherwise be able to correct.

Section 6 of the bill modestly improves the usefulness of inter partes reexamination procedures by enhancing the ability of third-party requesters to participate in that process by allowing such a third party to appeal an adverse reexamine decision in Federal court or to participate in the appeal brought by the patentee. This may make inter partes reexamination a somewhat more attractive option for challenging a patent in that a third party should feel more comfortable that the courts can be accessed to rectify a mistaken reexamination decision. This section should increase the use of the reexamine system and thus decrease the number of patent matters adjudicated in federal court.

I again want to express my appreciation to the co-sponsors of this bill, Senators HATCH, REID, and BENNETT and look forward to working with other Senators on these matters.

Mr. HATCH. Mr. President, I am pleased to join with Senators LEAHY, REID, and BENNETT in the introduction of the Patent and Trademark Office Authorization Act of 2002. As Senator LEAHY mentioned, he and I, as leaders of the Judiciary Committee, have enjoyed a productive relationship working together to protect America's innovators, and to strengthen our intellectual property laws as well as the agencies that administer and enforce them.

One of the issues we have long worked on is strengthening the ability of the United States Patent Office, ''USPTO'', to do its important work in reviewing and granting intellectual property rights to inventors seeking the patents that drive our high-tech economy or those businesses that seek to protect the trademarks that consumers rely on to find the goods and services they want. For those inventors and businesses to succeed in using those patent or trademark rights, the USPTO needs to do a quality and timely job in reviewing and granting those rights.

However, over the past few years, the USPTO has been under mounting pressure on three fronts, increased filings, increased complexity in the filings, and increased difficulty retaining valuable and experienced examiners in the face of more lucrative offers in the private sector. These pressures, if unaddressed, can lead to delays for applicants of months or years, or to reduced quality and reliability of the determinations that issue from the USPTO. Indeed, the USPTO estimates that the patent pendency period could rise to 38 months by 2006. I hate to think that innovative products could sit on the shelf for more than three years awaiting government review. This is especially troubling when we realize that in many high-tech sectors the shelf life of a product is often less than half that time. Such increased waiting periods and lower quality decision-making means slower innovation, less competitiveness, higher costs, and greater risk for those seeking patents or trademarks. And, consequently, the rest of us and our economy could see slower recovery and weaker growth. Addressing these challenges will require leadership, of course, which I believe can be provided by the President's nominee to head the USPTO, former Congressman Jim Rogan. But, to be realistic, we

must admit that surely it will also require resources.

As many in this body know, the costs of running the USPTO are entirely paid for by fees collected from applicants, individuals and companies that seek to benefit from patent and trademark protection. However, since 1992 Congress has diverted an amount estimated at over $800 million from those fees for other government programs unrelated to the USPTO.

At a time when our economy needs support, it seems doubly wrong to levy what amounts to a tax on innovation, a tax imposed by taking a portion of the fees America's innovators and businesses pay to secure protection for their economy-generating products and services and spending it on unrelated government programs. I believe that fees paid to secure patent and trademark rights should be used to process those applications faster with better reliability precisely because getting the products of American ingenuity to market faster helps grow our economy faster.

That is why I am glad to join my colleagues in introducing this bill which takes the position that Congress should appropriate to the USPTO a funding level equal to the fees applicants pay. I agree with my colleagues that if fully implemented as intended, this bill can greatly assist the USPTO in issuing quality patents more quickly, which in turn can lead to more investment, job creation, and productivity for American businesses.

In addition to establishing the principle that user fees collected by the USPTO should be used to serve those who pay them, the bill makes additional improvements to the way the USPTO does business, further enhancing its ability to serve American companies and inventors. Among these improvements are the requirement that the USPTO develop a user-friendly electronic system for the filing and processing of all patent and trademark applications, and that the PTO to develop a strategic plan to enhance patent and trademark quality, reduce pendency, and otherwise improve their systems and services for the benefit of applicants, examiners, and the general public. The bill also contains two sections which will clarify two provisions of current law regarding reexamination of patents to provide greater guidance to the USPTO and its customers about the scope and availability of the reexamination process. Both of these changes should help streamline and reduce the costs of post-grant patent decisions.

I again want to express my appreciation to Senator LEAHY, the chairman of the Judiciary Committee, for this leadership, and to the other co-sponsors of this bill, Senators REID and BENNETT. I look forward to working with them and my other colleagues on this important legislation.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 185—RECOGNIZING THE HISTORICAL SIGNIFICANCE OF THE 100TH ANNIVERSARY OF KOREAN IMMIGRATION TO THE UNITED STATES

Mr. ALLEN (for himself, Mr. HELMS, Mr. CAMPBELL, Mr. WARNER, Mr. ALLARD, Mr. INOUYE, Mrs. FEINSTEIN, Mr. BIDEN, Mr. SMITH of Oregon, Mr. GRASSLEY, Mr. SESSIONS, Mr. FITZGERALD, and Mr. GRAMM) submitted the following resolution; which was referred to the Committee on the Judiciary.

S. RES. 185

Whereas missionaries from the United States played a central role in nurturing the political and religious evolution of modern Korea, and directly influenced the early Korean immigration to the United States;

Whereas in December 1902, 56 men, 21 women, and 25 children left Korea and traveled across the Pacific Ocean on the S.S. Gaelic and landed in Honolulu, Hawaii on January 13, 1903;

Whereas the early Korean-American community was united around the common goal of attaining freedom and independence for their colonized mother country;

Whereas members of the early Korean-American community served with distinction in the Armed Forces of the United States during World War I, World War II, and the Korean Conflict;

Whereas on June 25, 1950, Communist North Korea invaded South Korea with approximately 135,000 troops, thereby initiating the involvement of approximately 5,720,000 personnel of the United States Armed Forces who served during the Korean Conflict to defeat the spread of communism in Korea and throughout the world;

Whereas casualties in the United States Armed Forces during the Korean Conflict included 54,260 dead (of whom 33,665 were battle deaths), 92,134 wounded, and 8,176 listed as missing in action or prisoners of war;

Whereas in the early 1950s, thousands of Koreans, fleeing from war, poverty, and desolation, came to the United States seeking opportunities;

Whereas Korean-Americans, like waves of immigrants to the United States before them, have taken root and thrived in the United States through strong family ties, robust community support, and countless hours of hard work;

Whereas Korean immigration to the United States has invigorated business, church, and academic communities in the United States;

Whereas according to the 2000 United States Census, Korean-Americans own and operate 135,571 businesses across the United States that have gross sales and receipts of $46,000,000,000 and employ 333,649 individuals with an annual payroll of $5,800,000,000;

Whereas the contributions of Korean-Americans to the United States include, the invention of the first beating heart operation for coronary artery heart disease, the development of the nectarine, a 4-time Olympic gold medalist, and achievements in engineering, architecture, medicine, acting, singing, sculpture, and writing;

Whereas Korean-Americans play a crucial role in maintaining the strength and vitality of the United States-Korean partnership;

Whereas the United States-Korean partnership helps undergird peace and stability in the Asia-Pacific region and provides economic benefits to the people of the United States and Korea and to the rest of the world; and

Whereas beginning in 2003, more than 100 communities throughout the United States will celebrate the 100th anniversary of Korean immigration to the United States: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the achievements and contributions of Korean-Americans to the United States over the past 100 years; and

(2) requests that the President issue a proclamation calling on the people of the United States and interested organizations to observe the anniversary with appropriate programs, ceremonies, and activities.

Mr. ALLEN. Mr. President, I am pleased to submit today, along with the Chairman of the Foreign Relations Committee, Senator BIDEN, the Vice Chairman of the Armed Services Committee, Mr. WARNER, and the Vice Chairman of the Indian Affairs Committee, Mr. CAMPBELL, and many of our colleagues, a Senate resolution recognizing the historical significance of the 100th anniversary of Korean-Americans' immigration to the United States in 2003.

In December of 1902, 56 men, 21 women and 25 children traveled from Korea across the Pacific Ocean on the *S.S. Gaelic* and landed in Honolulu, HI, on January 13, 1903, marking the first entry of Korean immigrants to the U.S. territories. The year 2003 will be the 100th Anniversary of that immigration. With that anniversary looming, interest in this historic centennial celebration is growing in Korean communities in the United States and worldwide, including events within the vibrant Korean-American communities in the Commonwealth of Virginia.

A century is more than a convenient marker for Korean-Americans: It celebrates Koreans' prominent place in the broad narrative of America. Judging by their achievements over these past 100 years, theirs is an American story that confirms the opportunity for individual initiative, creativity, hard work and success in these free United States.

Both individually and as a community, Korean-Americans have much to celebrate in 2003. In such diverse areas as commerce and finance, technology, medicine, education, and the arts, Korean-American contributions are being widely acknowledged and recognized. Even the Korean culture, uniquely shaped, inspired, and nurtured by life in America, is becoming part of the vernacular. From Hawaii to California to New York, and in Annandale in Fairfax County, VA, Korean-American communities are vibrant and vital leaders throughout the United States.

It is worth noting that apart from the many achievements by Korean-Americans, unique among all immigrant communities in the United States, the early Korean-American community was united around the common goal of attaining freedom and independence for their colonized mother country. Like many immigrant groups, Korean-Americans embraced the basic principles of democracy in our Constitution. It is a goal that continues to this day, when one considers

that one out of four Korean-Americans still has relatives and other loved ones trapped in North Korea.

Starting in the early 1950s, thousands of immigrants, fleeing from war, poverty and desolation came to the United States seeking opportunities. Without knowing the language and without great wealth, but with strong family ties, caring community support and many hours of hard work, Korean-Americans, like waves of immigrants before them, have taken root and thrived in our free American soil.

Crucial to Korean-Americans' success was their ability to organize themselves for mutual support and assistance through associations, churches and other organizations. This success has translated itself, according to the 2000 U.S. Census, into 135,571 businesses owned and operated by Korean-Americans across the country with gross sales and receipts of $46 billion. These businesses employ 333,649 men and women with an annual payroll of $5.8 billion.

The contributions to this country by early Korean-Americans include the invention of the first beating heart operation for coronary heart disease, the development of the nectarine and a four-time Olympic gold medallist. In the modern era, there have been notable achievements by engineers, architects, doctors, actors, singers, sculptors and novelists, among others. With more than 100 communities throughout the United States preparing to celebrate the 100th anniversary of Korean-American immigration to the United States, it is appropriate and deserving to recognize the historical significance of this milestone.

It is my hope that this resolution will encourage appreciation, pride, and self-awareness among Korean Americans, and I encourage schools, organizations, and Federal, State, and local governments to plan activities and programs together with the many Korean-American organizations that are currently preparing for this wonderful anniversary of the living American Dream.

I respectfully ask for the support of my colleagues on both sides of the aisle for this resolution, and urge the Senate to pass this historic resolution.

SENATE CONCURRENT RESOLUTION 87—EXPRESSING THE SENSE OF CONGRESS REGARDING THE CRASH OF AMERICAN AIRLINES FLIGHT 587

Mr. SCHUMER (for himself and Mrs. CLINTON) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 87

Whereas American Airlines Flight 587 en route from John F. Kennedy Airport in Queens County, New York to Santo Domingo, Dominican Republic crashed on the Rockaway Peninsula in Queens County, New York on November 12, 2001;

Whereas the crash resulted in the tragic loss of life by an estimated at 266 persons, including passengers, crew members, and people on the ground;

Whereas New York City has strong cultural, familial, and historic ties to the Dominican Republic;

Whereas many of the passengers were of Dominican origin residing in the Washington Heights community, a vibrant neighborhood that is an integral part of our national cultural mosaic;

Whereas the Rockaway community has already suffered greatly as a result of the terrorist attacks on the World Trade Center in New York City on September 11, 2001, as the Rockaway community has long been home to one of the highest concentrations of the firefighters of New York City, many of whom lost their lives responding to those attacks on the World Trade Center;

Whereas many Rockaway residents, ignoring the risks of being harmed by fire or other hazards at the site of the plane crash, rushed to the site in an effort to help;

Whereas the people of Rockaway have served as an inspiration through their resilience in the face of adversity and their faith in and practice of community; and

Whereas the professional emergency personnel of New York on the ground at the crash site performed emergency services valiantly, thereby limiting the devastation of this tragedy: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. SENSE OF CONGRESS.

The Congress—

(1) sends its heartfelt condolences to the families, friends, and loved ones of the victims of the crash of American Airlines Flight 587 on November 12, 2001;

(2) sends its sympathies to the people of the Dominican Republic and to the Dominican community in the City of New York who have been so tragically affected by the loss of loved ones aboard that flight;

(3) sends its sympathies to the people of the Rockaway community who have suffered immense personal loss as a combined result of the crash on November 12, 2001, and the terrorist attacks on the World Trade Center on September 11, 2001; and

(4) commends the heroic actions of the rescue workers, volunteers, and State and local officials of New York who responded to these tragic events with courage, determination, and skill.

SEC. 2. TRANSMISSION OF THE ENROLLED RESOLUTION.

The Clerk of the Senate shall transmit an enrolled copy of this resolution to the President of the Dominican Republic and to the Mayor of New York City.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2175. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table.

SA 2176. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2177. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2178. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2179. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2180. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2181. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2182. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2183. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2184. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2185. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2186. Mr. BOND submitted an amendment intended to be proposed by him to the bill H.R. 10, supra; which was ordered to lie on the table.

SA 2187. Mr. BOND submitted an amendment intended to be proposed to amendment SA 2171 submitted by Mr. LOTT and intended to be proposed to the amendment SA 2170 proposed by Mr. DASCHLE to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2188. Mr. BOND submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2189. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2190. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2191. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2192. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2193. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2194. Mr. GRAMM submitted an amendment intended to be proposed to amendment

SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2195. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2196. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2197. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2198. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2199. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2200. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2201. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2202. Mr. DOMENICI submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2203. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 10, supra; which was ordered to lie on the table.

SA 2204. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 10, supra; which was ordered to lie on the table.

SA 2205. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 10, supra; which was ordered to lie on the table.

SA 2206. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 10, supra; which was ordered to lie on the table.

SA 2207. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 10, supra; which was ordered to lie on the table.

SA 2208. Mr. ALLEN submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2209. Mr. ALLEN submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2210. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 10, supra; which was ordered to lie on the table.

SA 2211. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 10, supra; which was ordered to lie on the table.

SA 2212. Mr. ALLEN submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) supra; which was ordered to lie on the table.

SA 2213. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 10, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2175. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

On page 40, line 1, strike ''10 most'' and insert ''5 most''.

SA 2176. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

On page 41, after line 16, insert the following:

SEC. 205. REPEAL OF 4.3-CENT MOTOR FUEL EXCISE TAXES ON RAILROADS WHICH REMAIN IN GENERAL FUND.

(a) TAXES ON TRAINS.—

(1) IN GENERAL.—Subparagraph (A) of section 4041(a)(1) (relating to tax on diesel fuel in certain cases) is amended—

(A) by striking ''or a diesel-powered train'' in clauses (i) and (ii), and

(B) by striking ''or train'' in clause (i).

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 4041(a)(1) is amended by striking clause (ii) and by redesignating clause (iii) as clause (ii).

(B) Subparagraph (C) of section 4041(b)(1) is amended by striking all that follows ''section 6421(e)(2)'' and inserting a period.

(C) Subsection (d) of section 4041 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) DIESEL FUEL USED IN TRAINS.—There is hereby imposed a tax of 0.1 cent per gallon on any liquid other than gasoline (as defined in section 4083)—

''(A) sold by any person to an owner, lessee, or other operator of a diesel-powered train for use as a fuel in such train, or

''(B) used by any person as a fuel in a diesel-powered train unless there was a taxable sale of such fuel under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if tax was imposed on such liquid under section 4081.''.

(D) Subsection (f) of section 4082 is amended by striking ''section 4041(a)(1)'' and inserting ''subsections (d)(3) and (a)(1) of section 4041, respectively''.

(E) Paragraph (3) of section 4083(a) is amended by striking ''or a diesel-powered train''.

(F) Paragraph (3) of section 6421(f) is amended to read as follows:

''(3) GASOLINE USED IN TRAINS.—In the case of gasoline used as a fuel in a train, this section shall not apply with respect to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081.''.

(G) Paragraph (3) of section 6427(f) is amended to read as follows:

''(3) REFUND OF CERTAIN TAXES ON FUEL USED IN DIESEL-POWERED TRAINS.—For purposes of this subsection, the term 'nontaxable use' includes fuel used in a diesel-powered train. The preceding sentence shall not apply to the tax imposed by section 4041(d) and the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 except with respect to fuel sold for exclusive use by a State or any political subdivision thereof.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2002.

SA 2177. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 105(c).

SA 2178. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 107(c)(1).

SA 2179. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

On page 28, line 8, strike ''transfer'' and insert ''transfer, but only if there was an on-budget surplus in the most recent fiscal year ending prior to such transfer''.

SA 2180. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 107, add the following:

(h) NO GENERAL REVENUE SPENDING TO PAY BENEFITS.—Beginning on the date that amounts are transferred to the National Railroad Retirement Investment Trust pursuant to the amendments made by this section—

(1) no transfers from the general fund in the treasury may be used to pay benefits under the Railroad Retirement Act of 1974; and

(2) such benefits shall only be payable to the extent that sufficient funds exist in the appropriate accounts under such Act or the National Railroad Retirement Investment Trust to make such payments.

SA 2181. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE III—REPLACEMENT PENSION PLAN

SEC. 301. REPLACEMENT PENSION PLAN.

(a) IN GENERAL.—Notwithstanding any other provision of law, any employer (as defined in section 1(a)(1) of the Railroad Retirement Act of 1974), including the National

Railroad Passenger Corporation, may enter into negotiations with employee representatives with respect to a new pension plan for its employees for the purpose of terminating coverage under such Act.

(b) CERTIFICATION OF PLAN.—If the plan described in subsection (a) is certified by the Secretary of Labor and the Secretary of the Treasury as a bona fide plan that meets the criteria of the Employee Retirement Income Security Act of 1974 for pension funds, then, notwithstanding any other provision of law, the individuals described in subsection (a) shall not longer be entitled to benefits under the Railroad Retirement Act of 1974.

(c) TECHNICAL AND CONFORMING CHANGES.—The Commissioner of Social Security, the Railroad Retirement Board, and the Secretary of the Treasury, as soon as practicable but in any event not later than 180 days after the date of enactment of this Act, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a draft of any technical and conforming changes in the Social Security Act, the Railroad Retirement Act of 1974, and the Internal Revenue Code of 1986 which are necessary to reflect throughout such Acts and Code the purposes of this section.

SA 2182. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

On page 13, between lines 24 and 25, insert the following:

''(3) TREATMENT AS A MULTIEMPLOYER PENSION FUND.—For purposes of the Employee Retirement Income Security Act of 1974, the Trust shall be treated as a multiemployer plan (as defined in section 3(37) of such Act).

SA 2183. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 102.

SA 2184. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE III—REPEAL OF GENERAL FUND SUBSIDY TO RAILROAD RETIREMENT ACCOUNT

SEC. 301. REPEAL OF GENERAL FUND SUBSIDY TO RAILROAD RETIREMENT ACCOUNT.

(a) REPEAL.—Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (45 U.S.C. 231n note) is repealed.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall take effect on the date that amounts are transferred to the National Railroad Retirement Investment Trust pursuant to the amendments made by section 107.

SA 2185. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Railroad Retirement and Survivors' Improvement Act of 2001''.

SEC. 2. EXPANSION OF WIDOW'S AND WIDOWER'S BENEFITS.

(a) IN GENERAL.—Section 4(g) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(g)) is amended by adding at the end the following new subdivision:

''(10)(i) If for any month the unreduced annuity provided under this section for a widow or widower is less than the widow's or widower's initial minimum amount computed pursuant to paragraph (ii) of this subdivision, the unreduced annuity shall be increased to that initial minimum amount. For the purposes of this subdivision, the unreduced annuity is the annuity without regard to any deduction on account of work, without regard to any reduction for entitlement to an annuity under section 2(a)(1) of this Act, without regard to any reduction for entitlement to a benefit under title II of the Social Security Act, and without regard to any reduction for entitlement to a public service pension pursuant to section 202(e)(7), 202(f)(2), or 202(g)(4) of the Social Security Act.

''(ii) For the purposes of this subdivision, the widow or widower's initial minimum amount is the amount of the unreduced annuity computed at the time an annuity is awarded to that widow or widower, except that—

''(A) in subsection (g)(1)(i) '100 per centum' shall be substituted for '50 per centum'; and

''(B) in subsection (g)(2)(ii) '130 per centum' shall be substituted for '80 per centum' both places it appears.

''(iii) If a widow or widower who was previously entitled to a widow's or widower's annuity under section 2(d)(1)(ii) of this Act becomes entitled to a widow's or widower's annuity under section 2(d)(1)(i) of this Act, a new initial minimum amount shall be computed at the time of award of the widow's or widower's annuity under section 2(d)(1)(i) of this Act.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall take effect on the first day of the first month that begins more than 30 days after enactment, and shall apply to annuity amounts accruing for months after the effective date in the case of annuities awarded—

(A) on or after that date; and

(B) before that date, but only if the annuity amount under section 4(g) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(g)) was computed under such section, as amended by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97–35; 95 Stat. 357).

(2) SPECIAL RULE FOR ANNUITIES AWARDED BEFORE THE EFFECTIVE DATE.—In applying the amendment made by this section to annuities awarded before the effective date, the calculation of the initial minimum amount under new section 4(g)(10)(ii) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(g)(10)(ii)), as added by subsection (a), shall be made as of the date of the award of the widow's or widower's annuity.

SEC. 3. REPEAL OF 4.3-CENT MOTOR FUEL EXCISE TAXES ON RAILROADS WHICH REMAIN IN GENERAL FUND.

(a) TAXES ON TRAINS.—

(1) IN GENERAL.—Subparagraph (A) of section 4041(a)(1) of the Internal Revenue Code of 1986 (relating to tax on diesel fuel in certain cases) is amended—

(A) by striking ''or a diesel-powered train'' in clauses (i) and (ii), and

(B) by striking ''or train'' in clause (i).

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 4041(a)(1) of such Code is amended by striking clause (ii) and by redesignating clause (iii) as clause (ii).

(B) Subparagraph (C) of section 4041(b)(1) of such Code is amended by striking all that follows ''section 6421(e)(2)'' and inserting a period.

(C) Subsection (d) of section 4041 of such Code is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) DIESEL FUEL USED IN TRAINS.—There is hereby imposed a tax of 0.1 cent per gallon on any liquid other than gasoline (as defined in section 4083)—

''(A) sold by any person to an owner, lessee, or other operator of a diesel-powered train for use as a fuel in such train, or

''(B) used by any person as a fuel in a diesel-powered train unless there was a taxable sale of such fuel under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if tax was imposed on such liquid under section 4081.''.

(D) Subsection (f) of section 4082 of such Code is amended by striking ''section 4041(a)(1)'' and inserting ''subsections (d)(3) and (a)(1) of section 4041, respectively''.

(E) Paragraph (3) of section 4083(a) of such Code is amended by striking ''or a diesel-powered train''.

(F) Paragraph (3) of section 6421(f) of such Code is amended to read as follows:

''(3) GASOLINE USED IN TRAINS.—In the case of gasoline used as a fuel in a train, this section shall not apply with respect to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081.''.

(G) Paragraph (3) of section 6427(f) of such Code is amended to read as follows:

''(3) REFUND OF CERTAIN TAXES ON FUEL USED IN DIESEL-POWERED TRAINS.—For purposes of this subsection, the term 'nontaxable use' includes fuel used in a diesel-powered train. The preceding sentence shall not apply to the tax imposed by section 4041(d) and the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 except with respect to fuel sold for exclusive use by a State or any political subdivision thereof.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2002.

SA 2186. Mr. BOND submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. FAIR AND EQUITABLE RESOLUTION OF LABOR INTEGRATION ISSUES.

(a) PURPOSE.—The purpose of this section is to require procedures that ensure the fair and equitable resolution of labor integration issues, in order to prevent further disruption to transactions for the combination of air carriers, which would potentially aggravate the disruption caused by the attack on the United States on September 11, 2001.

(b) DEFINITIONS.—In this Act:

(1) AIR CARRIER.—The term ''air carrier'' means an air carrier that holds a certificate issued under chapter 411 of title 49, United States Code.

(2) COVERED AIR CARRIER.—The term ''covered air carrier'' means an air carrier that is involved in a covered transaction.

(3) COVERED EMPLOYEE.—The term ''covered employee'' means an employee who—

(A) is not a temporary employee; and

(B) is a member of a craft or class that is subject to the Railway Labor Act (45 U.S.C. 151 et seq.).

(4) COVERED TRANSACTION.—The term ''covered transaction'' means a transaction that—

(A) is a transaction for the combination of multiple air carriers into a single air carrier;

(B) involves the transfer of ownership or control of—

(i) 50 percent or more of the equity securities (as defined in section 101 of title 11, United States Code) of an air carrier; or

(ii) 50 percent or more (by value) of the assets of the air carrier;

(C) became a pending transaction, or was completed, not earlier than January 1, 2001; and

(D) did not result in the creation of a single air carrier by September 11, 2001.

(c) SENIORITY INTEGRATION.—In any covered transaction involving a covered air carrier that leads to the combination of crafts or classes that are subject to the Railway Labor Act—

(1) sections 3 and 13 of the labor protective provisions imposed by the Civil Aeronautics Board in the Allegheny-Mohawk merger (as published at 59 CAB 45) shall apply to the covered employees of the covered air carrier; and

(2) subject to paragraph (1), in a case in which a collective bargaining agreement provides for the application of sections 3 and 13 of the labor protective provisions in the process of seniority integration for the covered employees, the terms of the collective bargaining agreement shall apply to the covered employees and shall not be abrogated.

(d) ENFORCEMENT.—Any aggrieved person (including any labor organization that represents the person) may bring an action to enforce this section, or the terms of any award or agreement resulting from arbitration or a settlement relating to the requirements of this section. The person may bring the action in an appropriate Federal district court, determined in accordance with section 1391 of title 28, United States Code, without regard to the amount in controversy.

SA 2187. Mr. BOND submitted an amendment intended to be proposed to amendment SA 2171 submitted by Mr. LOTT and intended to be proposed to the amendment SA 2170 proposed by Mr. DASCHLE to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. FAIR AND EQUITABLE RESOLUTION OF LABOR INTEGRATION ISSUES.

(a) PURPOSE.—The purpose of this section is to require procedures that ensure the fair and equitable resolution of labor integration issues, in order to prevent further disruption to transactions for the combination of air carriers, which would potentially aggravate the disruption caused by the attack on the United States on September 11, 2001.

(b) DEFINITIONS.—In this Act:

(1) AIR CARRIER.—The term ''air carrier'' means an air carrier that holds a certificate issued under chapter 411 of title 49, United States Code.

(2) COVERED AIR CARRIER.—The term ''covered air carrier'' means an air carrier that is involved in a covered transaction.

(3) COVERED EMPLOYEE.—The term ''covered employee'' means an employee who—

(A) is not a temporary employee; and

(B) is a member of a craft or class that is subject to the Railway Labor Act (45 U.S.C. 151 et seq.).

(4) COVERED TRANSACTION.—The term ''covered transaction'' means a transaction that—

(A) is a transaction for the combination of multiple air carriers into a single air carrier;

(B) involves the transfer of ownership or control of—

(i) 50 percent or more of the equity securities (as defined in section 101 of title 11, United States Code) of an air carrier; or

(ii) 50 percent or more (by value) of the assets of the air carrier;

(C) became a pending transaction, or was completed, not earlier than January 1, 2001; and

(D) did not result in the creation of a single air carrier by September 11, 2001.

(c) SENIORITY INTEGRATION.—In any covered transaction involving a covered air carrier that leads to the combination of crafts or classes that are subject to the Railway Labor Act—

(1) sections 3 and 13 of the labor protective provisions imposed by the Civil Aeronautics Board in the Allegheny-Mohawk merger (as published at 59 CAB 45) shall apply to the covered employees of the covered air carrier; and

(2) subject to paragraph (1), in a case in which a collective bargaining agreement provides for the application of sections 3 and 13 of the labor protective provisions in the process of seniority integration for the covered employees, the terms of the collective bargaining agreement shall apply to the covered employees and shall not be abrogated.

(d) ENFORCEMENT.—Any aggrieved person (including any labor organization that represents the person) may bring an action to enforce this section, or the terms of any award or agreement resulting from arbitration or a settlement relating to the requirements of this section. The person may bring the action in an appropriate Federal district court, determined in accordance with section 1391 of title 28, United States Code, without regard to the amount in controversy.

SA. 2188. Mr. BOND submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. FAIR AND EQUITABLE RESOLUTION OF LABOR INTEGRATION ISSUES.

(a) PURPOSE.—The purpose of this section is to require procedures that ensure the fair and equitable resolution of labor integration issues, in order to prevent further disruption to transactions for the combination of air carriers, which would potentially aggravate the disruption caused by the attack on the United States on September 11, 2001.

(b) DEFINITIONS.—In this Act:

(1) AIR CARRIER.—The term ''air carrier'' means an air carrier that holds a certificate issued under chapter 411 of title 49, United States Code.

(2) COVERED AIR CARRIER.—The term ''covered air carrier'' means an air carrier that is involved in a covered transaction.

(3) COVERED EMPLOYEE.—The term ''covered employee'' means an employee who—

(A) is not a temporary employee; and

(B) is a member of a craft or class that is subject to the Railway Labor Act (45 U.S.C. 151 et seq.).

(4) COVERED TRANSACTION.—The term ''covered transaction'' means a transaction that—

(A) is a transaction for the combination of multiple air carriers into a single air carrier;

(B) involves the transfer of ownership or control of—

(i) 50 percent or more of the equity securities (as defined in section 101 of title 11, United States Code) of an air carrier; or

(ii) 50 percent or more (by value) of the assets of the air carrier;

(C) became a pending transaction, or was completed, not earlier than January 1, 2001; and

(D) did not result in the creation of a single air carrier by September 11, 2001.

(c) SENIORITY INTEGRATION.—In any covered transaction involving a covered air carrier that leads to the combination of crafts or classes that are subject to the Railway Labor Act—

(1) sections 3 and 13 of the labor protective provisions imposed by the Civil Aeronautics Board in the Allegheny-Mohawk merger (as published at 59 CAB 45) shall apply to the covered employees of the covered air carrier; and

(2) subject to paragraph (1), in a case in which a collective bargaining agreement provides for the application of sections 3 and 13 of the labor protective provisions in the process of seniority integration for the covered employees, the terms of the collective bargaining agreement shall apply to the covered employees and shall not be abrogated.

(d) ENFORCEMENT.—Any aggrieved person (including any labor organization that represents the person) may bring an action to enforce this section, or the terms of any award or agreement resulting from arbitration or a settlement relating to the requirements of this section. The person may bring the action in an appropriate Federal district court, determined in accordance with section 1391 of title 28, United States Code, without regard to the amount in controversy.

SA 2189. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

On page 2 of the amendment, insert before line 1 the following:

''SEC. 2. Notwithstanding any other provision of this Act, the $15,000,000,000 transfer authorized under section 107(a) shall not take effect unless the Secretary of the Treasury finds that no portion of the transferred funds are attributable to the surplus in Social Security.''.

SA 2190. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 204(d) and insert the following:

(d) DETERMINATION OF RATE.—Chapter 22 is amended by adding at the end the following new subchapter:

''Subchapter E—Tier 2 Tax Rate Determination

''Sec. 3241. Determination of tier 2 tax rate based on account benefits ratio.

''SEC. 3241. DETERMINATION OF TIER 2 TAX RATE BASED ON ACCOUNT BENEFITS RATIO.

''(a) IN GENERAL.—For purposes of sections 3201(b), 3211(b), and 3221(b), the applicable percentage for any calendar year is the percentage determined in accordance with the table in subsection (b).

''(b) TAX RATE SCHEDULE.—

''Account benefits ratio		Applicable percentage for sections 3211(b) and 3221(b)	Applicable percentage for section 3201(b)
At least	But less than		
	2.5	22.1	4.9
2.5	3.0	18.1	4.9
3.0	3.5	15.1	4.9
3.5	4.0	14.1	4.9
4.0	6.1	13.1	4.9
6.1	6.5	12.6	4.4
6.5	7.0	12.1	3.9
7.0	7.5	11.6	3.4
7.5	8.0	11.1	2.9
8.0	8.5	10.1	1.9
8.5	9.0	9.1	0.9
9.0		8.2	0

''(c) ACCOUNT BENEFITS RATIO.—For purposes of this section, the term 'account benefits ratio' means, with respect to any calendar year, the amount determined by the Railroad Retirement Board by dividing the fair market value of the assets in the Railroad Retirement Account and of the National Railroad Retirement Investment Trust (and for years before 2002, the Social Security Equivalent Benefits Account) as of the close of the most recent fiscal year ending before such calendar year by the total benefits and administrative expenses paid from the Railroad Retirement Account and the National Railroad Retirement Investment Trust during such fiscal year.

''(d) NOTICE.—No later than December 1 of each calendar year, the Secretary shall publish a notice in the Federal Register of the rates of tax determined under this section which are applicable for the following calendar year.''.

SA 2191. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

On page 2 of the amendment, insert before line 1 the following:

''SEC. 2. Notwithstanding any other provision of Act, the reduction in the retirement age authorized by section 102 shall not take effect until the Secretary of the Treasury finds that there has been a comparable reduction in the Social Security retirement age.''.

SA 2192. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

On page 2 of the amendment, insert before line 1 the following:

''SEC. 2. Notwithstanding any other provision of this Act, the $15,000,000,000 transfer authorized under section 107(a) shall not take effect unless the Secretary of the Treasury finds that no portion of the transferred funds are attributable to the surplus in Social Security or in Medicare.''.

SA 2193. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

On page 2 of the amendment, insert before line 1 the following:

''SEC. 2. Notwithstanding any other provision of Act, the Board of Trustees created under section 105 shall invest the funds of the Trust only in a manner that maximizes return on investment, consistent with prudent risk management. Any railroad employee, retiree, survivor, or company may bring a civil action to enforce this section.''.

SA 2194. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

In the table on page 39, line 9, strike 22.1 and insert ''such percentage as the Secretary determines is necessary to restore the average account benefit ratio to 2.5.''.

SA 2195. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

Strike Sec. 107(c).

SA 2196. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

On page 2 of the amendment, insert before line 1 the following:

''SEC. 2. Notwithstanding any other provision of this Act, any reduction in tax or increase in benefits shall take effect only to the degree that the Secretary of the Treasury finds that the actual earnings of the Railroad Retirement Investment Trust Fund are sufficient to fund them.''.

SA 2197. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

Strike Section 105(c).

SA 2198. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

On page 2 of the amendment, insert before line 1 the following:

''SEC. 2. Notwithstanding any other provision of Act, any reduction in tax under section 204 shall be null and void in any year that the combined balances of the Railroad Retirement trust funds have been depleted by more than 10 percent as compared to the combined balances of the Railroad Retirement trust funds projected by the Railroad Retirement Board under employment assumption II as of the day before the date of enactment of this Act.''.

SA 2199. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

On page 2 of the amendment, insert before line 1 the following:

''SEC. 2. Notwithstanding any other provision of Act, any reduction in tax under section 204 shall be null and void in any year that the combined balances of the Railroad Retirement trust funds have been depleted by more than 20 percent as compared to the combined balances of the Railroad Retirement trust funds projected by the Railroad Retirement Board under employment assumption II as of the day before the date of enactment of this Act.''.

SA 2200. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

On page 2 of the amendment, insert before line 1 the following:

''SEC. 2. Notwithstanding any other provision of Act, any reduction in tax under section 204 shall be null and void in any year that the combined balances of the Railroad Retirement trust funds have been depleted by more than 40 percent as compared to the combined balances of the Railroad Retirement trust funds projected by the Railroad Retirement Board under employment assumption II as of the day before the date of enactment of this Act.''.

SA 2201. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

On page 2 of the amendment, insert before line 1 the following:

''SEC. 2. Notwithstanding any other provision of Act, any reduction in tax under section 204 shall be null and void in any year that the combined balances of the Railroad Retirement trust funds have been depleted by more than 75 percent ads compared to the combined balance of the Railroad Retirement trust funds projected by the Railroad Retirement Board under employment assumption II as of the day before the date of enacting of this Act.''.

SA 2202. Mr. DOMENICI submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 105(c).

SA 2203. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . EFFECTIVE DATE REQUIRES BALANCED BUDGET.

Notwithstanding any other provision of this Act, this Act and the amendments made by this Act shall take effect on the first day of the first fiscal year with respect to a budget that follows the year when an actual on-budget surplus that exceeds amounts in the Medicare trust funds has been achieved..

SA 2204. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . EFFECTIVE DATE REQUIRES BALANCED BUDGET.

Notwithstanding any other provision of this Act, this Act and the amendments made by this Act shall take effect on the first day of the first fiscal year with respect to which the President submits a budget pursuant to section 1105 of title 31, United States Code, that provides an on-budget surplus that exceeds amounts in the Medicare trust funds.

SA 2205. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . EFFECTIVE DATE REQUIRES BALANCED BUDGET.

Notwithstanding any other provision of this Act, this Act and the amendments made by this Act shall take effect on the first day of the first fiscal year with respect to which the President submits a budget pursuant to section 1105 of title 31, United States Code, that provides an on-budget surplus.

SA 2206. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . EFFECTIVE DATE REQUIRES BALANCED BUDGET.

Notwithstanding any other provision of this Act, this Act and the amendments made by this Act shall take effect on the first day of the first fiscal year with respect to which the President submits a budget pursuant to section 1105 of title 31, United States Code, that provide a unified budget surplus.

SA 2207. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following.

SEC. . SENSE OF THE SENATE REGARDING ACCELERATION OF RAIL TO WASHINGTON DULLES INTERNATIONAL AIRPORT.

(a.) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should—

(1) Act expeditiously to facilitate the extension of rail service to Washington Dulles International Airport.

(2) Encourage the Administrator of the Federal Transit Administration to work with the Commonwealth of Virginia, Northern Virginia municipalities, and the Metropolitan Washington Area Transit Authority to develop and implement a financing plan for the Dulles Corridor raid transit project.

SA 2280. Mr. ALLEN submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following.

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Terrorist Response Tax Exemption Act''.

SEC. 2 EXCLUSION OF CERTAIN TERRORIST ATTACK ZONE COMPENSATION OF CIVILIAN UNIFORMED PERSONNEL.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to * * *

''(A) were dangerous to human life and a violation of the criminal laws of the United States or of any State, and

''(B) would appear to be intended to intimidate or coerce a civilian population, influence the policy of a government by intimidation, or affect the conduct of a government by assassination or kidnapping.

''(3) COMPENSATION.—The term 'compensation' does not include pensions and retirement pay.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 3401(a)(1) of the Internal Revenue Code of 1986 is amended by inserting ''or section 112A (relating to certain terrorist attack zone compensation of civilian uniformed personnel)'' after ''United States)''.

(2) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by inserting after the item relating to section 112 the following new item:

''Sec. 112A. Certain terrorist attack zone compensation of civilian uniformed personnel.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after September 11, 2001.

SA 2209. Mr. ALLEN submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following.

SEC. . SENSE OF THE SENATE REGARDING ACCELERATION OF RAIL TO WASHINGTON DULLES INTERNATIONAL AIRPORT.

(a.) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should—

(1) Act expeditiously to facilitate the extension of rail service to Washington Dulles International Airport.

(2) Encourage the Administrator of the Federal Transit Administration to work with the Commonwealth of Virginia, Northern Virginia municipalities, and the Metropolitan Washington Area Transit Authority to develop and implement a financing plan for the Dulles Corridor rapid transit project.

SA 2210. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. NATIONAL EMERGENCY GRANTS.

In section 173(a) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(a)(4)), add after (3):

(4) to provide assistance to the Governor to provide personal income compensation to a unemployed worker, if—

(A) the worker is unable to work due to direct Federal Government intervention, as a result of a direct response to the terrorist attacks which occurred on September 11th, 2001, leading to—

(i) closure of the facility at which the worker was employed, prior to the intervention; or

(ii) a restriction on how business may be conducted at the facility; and

(B) the facility is located within an area, which not later than October 1, 2001, was declared a major disaster area or an emergency by the President, pursuant to section 401 or 501, respectively, of the Robert T. Stafford Disaster Relief and Emergency Relief Act (42 U.S.C. 5170 and 5191), due to a terrorist attack on the United States on September 11, 2001.

(5) to provide assistance to the Governor to provide business income compensation to an independently owned business or proprietorship if—

(A) the business or proprietorship is unable to earn revenue due to direct Federal intervention, as a result of a direct response to the terrorist attacks which occurred on September 11th, 2001, leading to—

(i) closure of the facility at which the business or prorietorship was located, prior to the intervention; or

(ii) a restriction on how customers may access the facility; and

(B) the facility is located within an area, which not later than October 1, 2001, was declared a major disaster area or an emergency by the President, pursuant to section 401 or 501, respectively, of the Robert T. Stafford Disaster Relief and Emergency Relief Act (42 U.S.C. 5170 and 5191), due to a terrorist attack on the United States on September 11, 2001.

SA 2211. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension, reform, and for other purposes; which was ordered to lie on the table; as follows:

Insert the following.

SECTION . SHORT TITLE.

This Act may be cited as the ''Terrorist Response Tax Exemption Act''.

SEC. . EXCLUSION OF CERTAIN TERRORIST ATTACK ZONE COMPENSATION OF CIVILIAN UNIFORMED PERSONNEL.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by inserting after section 112 the following new section:

''SEC. 112A. CERTAIN TERRORIST ATTACK ZONE COMPENSATION OF CIVILIAN UNIFORMED PERSONNEL.

''(a) IN GENERAL.—Gross income does not include compensation received by a civilian

uniformed employee for any month during any part of which such employee provides security, safety, fire management, or medical services in a terrorist attack zone.

''(b) DEFINITIONS.—For purposes of this section—

''(1) CIVILIAN UNIFORMED EMPLOYEE.—The term 'civilian uniformed employee' means any nonmilitary individual employed by a Federal, State, or local government (or any agency or instrumentality thereof) for the purpose of maintaining public order, establishing and maintaining public safety, or responding to medical emergencies.

''(2) TERRORIST ATTACK ZONE.—The term 'terrorist attack zone' means any area designated by the President or any applicable State or local authority (as determined by the Secretary) to be an area in which occurred a violent act or acts which—

''(A) were dangerous to human life and a violation of the criminal laws of the United States or of any State, and

''(B) would appear to be intended to intimidate or coerce a civilian population, influence the policy of a government by intimidation, or affect the conduct of a government by assassination or kidnapping.

''(3) COMPENSATION.—The term 'compensation' does not include pensions and retirement pay.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 3401(a)(1) of the Internal Revenue Code of 1986 is amended by inserting ''or section 112A (relating to certain terrorist attack zone compensation of civilian uniformed personnel)'' after ''United States)''.

(2) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by inserting after the item relating to section 112 the following new item:

''Sec. 112A. Certain terrorist attack zone compensation of civilian uniformed personnel.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after September 11, 2001.

SA 2212. Mr. ALLEN submitted an amendment intended to be proposed to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . NATIONAL EMERGENCY GRANTS

In section 173(a) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(a)(4)), add after (3):

(4) to provide assistance to the Governor to provide personal income compensation to a unemployed worker, if—

(A) the worker is unable to work due to direct Federal Government intervention, as a result of a direct response to the terrorist attacks which occurred on September 11, 2001, leading to—

(i) closure of the facility at which the worker was employed, prior to the intervention; or

(ii) a restriction on how business may be conducted at the facility; and

(B) the facility is located within an area, which not later than October 1, 2001, was declared a major disaster area or an emergency by the President, pursuant to section 401 or 501, respectively, of the Robert T. Stafford Disaster Relief and Emergency Relief Act (42 U.S.C. 5170 and 5191), due to a terrorist attack on the United States on September 11, 2001.

(5) to provide assistance to the Governor to provide business income compensation to an independently owned business or proprietorship if—

(A) the business or proprietorship is unable to earn revenue due to direct Federal intervention, as a result of a direct response to the terrorist attacks which occurred on September 11, 2001, leading to—

(i) closure of the facility at which the business or proprietorship was located, prior to the intervention; or

(ii) a restriction on how customers may access the facility; and

(B) the facility is located within an area, which not later than October 1, 2001, was declared a major disaster area or an emergency by the President, pursuant to section 401 or 501, respectively, of the Robert T. Stafford Disaster Relief and Emergency Relief Act (42 U.S.C. 5170 and 5191), due to a terrorist attack on the United States on September 11, 2001.

SA 2213. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ___—HUMAN CLONING PROHIBITION

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Human Cloning Prohibition Act of 2001''.

SEC. ___02. FINDINGS.

Congress finds that—

(1) the National Bioethics Advisory Commission (referred to in this title as the ''NBAC'') has reviewed the scientific and ethical implications of human cloning and has determined that the cloning of human beings is morally unacceptable;

(2) the NBAC recommended that Federal legislation be enacted to prohibit anyone from conducting or attempting human cloning, whether using Federal or non-Federal funds;

(3) the NBAC also recommended that the United States cooperate with other countries to enforce mutually supported prohibitions on human cloning;

(4) the NBAC found that somatic cell nuclear transfer (also known as nuclear transplantation) may have many important applications in medical research;

(5) the Institute of Medicine has found that nuclear transplantation may enable stem cells to be developed in a manner that will permit such cells to be transplanted into a patient without being rejected;

(6) the NBAC concluded that any regulatory or legislative actions undertaken to prohibit human cloning should be carefully written so as not to interfere with other important areas of research, such as stem cell research; and

(7)(A) biomedical research and clinical facilities engage in and affect interstate commerce;

(B) the services provided by clinical facilities move in interstate commerce;

(C) patients travel regularly across State lines in order to access clinical facilities; and

(D) biomedical research and clinical facilities engage scientists, doctors, and other staff in an interstate market, and contract for research and purchase medical and other supplies in an interstate market.

SEC. ___03. PURPOSES.

It is the purpose of this title to prohibit any attempt to clone a human being while protecting important areas of medical research, including stem cell research.

SEC. ___04. PROHIBITION ON HUMAN CLONING.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 15, the following:

''CHAPTER 16—PROHIBITION ON HUMAN CLONING

''Sec.

''301. Prohibition on human cloning.

''§ 301. Prohibition on human cloning

''(a) DEFINITIONS.—In this section:

''(1) HUMAN CLONING.—The term 'human cloning' means asexual reproduction by implanting or attempting to implant the product of nuclear transplantation into a uterus.

''(2) HUMAN SOMATIC CELL.—The term 'human somatic cell' means a mature, diploid cell that is obtained or derived from a living or deceased human being at any stage of development.

''(3) NUCLEAR TRANSPLANTATION.—The term 'nuclear transplantation' means transferring the nucleus of a human somatic cell into an oocyte from which the nucleus or all chromosomes have been or will be removed or rendered inert.

''(4) NUCLEUS.—The term 'nucleus' means the cell structure that houses the chromosomes, and thus the genes.

''(5) OOCYTE.—The term 'oocyte' means the female germ cell, the egg.

''(b) PROHIBITIONS ON HUMAN CLONING.—It shall be unlawful for any person or other legal entity, public or private—

''(1) to conduct or attempt to conduct human cloning;

''(2) to ship the product of nuclear transplantation in interstate or foreign commerce for the purpose of human cloning in the United States or elsewhere; or

''(3) to use funds made available under any provision of Federal law for an activity prohibited under paragraph (1) or (2).

''(c) PROTECTION OF MEDICAL RESEARCH.—Nothing in this section shall be construed to restrict areas of biomedical and agricultural research or practices not expressly prohibited in this section, including research or practices that involve the use of—

''(1) nuclear transplantation to produce human stem cells;

''(2) techniques to create exact duplicates of molecules, DNA, cells, and tissues;

''(3) mitochondrial, cytoplasmic or gene therapy; or

''(4) nuclear transplantation techniques to create nonhuman animals.

''(d) PENALTIES.—

''(1) IN GENERAL.—Whoever intentionally violates any provision of subsection (b) shall be fined under this title and imprisoned not more than 10 years.

''(2) CIVIL PENALTIES.—Whoever intentionally violates paragraph (1), (2), or (3) of subsection (b) shall be subject to a civil penalty of $1,000,000 or three times the gross pecuniary gain resulting from the violation, whichever is greater.

''(3) CIVIL ACTIONS.—If a person is violating or about to violate the provisions of subsection (b), the Attorney General may commence a civil action in an appropriate Federal district court to enjoin such violation.

''(4) FORFEITURE.—Any property, real or personal, derived from or used to commit a violation or attempted violation of the provisions of subsection (b), or any property traceable to such property, shall be subject to forfeiture to the United States in accordance with the procedures set forth in chapter 46 of title 18, United States Code.

''(5) ADVISORY OPINIONS.—The Attorney General shall, upon request, render binding advisory opinions regarding the scope, applicability, interpretation, and enforcement of this section with regard to specific research projects or practices.

''(e) COOPERATION WITH FOREIGN COUNTRIES.—It is the sense of Congress that the

President should cooperate with foreign countries to enforce mutually supported restrictions on the activities prohibited under subsection (b).

''(f) RIGHT OF ACTION.—Nothing in this section shall be construed to give any individual or person a private right of action.

''(g) PREEMPTION OF STATE LAW.—The provisions of this section shall preempt any State or local law that prohibits or restricts research regarding, or practices constituting, nuclear transplantation, mitochondrial or cytoplasmic therapy, or the cloning of molecules, DNA, cells, tissues, organs, plants, animals, or humans.''.

(b) ETHICAL REQUIREMENTS FOR NUCLEAR TRANSPLANTATION RESEARCH.—Part H of title IV of the Public Health Service Act (42 U.S.C. 289 et seq.) is amended by adding at the end the following:

''SEC. 498C. ETHICAL REQUIREMENTS FOR NUCLEAR TRANSPLANTATION RESEARCH.

''(a) DEFINITIONS.—In this section:

''(1) HUMAN SOMATIC CELL.—The term 'human somatic cell' means a mature, diploid cell that is obtained or derived from a living or deceased human being at any stage of development.

''(2) NUCLEAR TRANSPLANTATION.—The term 'nuclear transplantation' means transferring the nucleus of a human somatic cell into an oocyte from which the nucleus or all chromosomes have been or will be removed or rendered inert.

''(3) NUCLEUS.—The term 'nucleus' means the cell structure that houses the chromosomes, and thus the genes.

''(4) OOCYTE.—The term 'oocyte' means the female germ cell, the egg.

''(b) APPLICABILITY OF FEDERAL ETHICAL STANDARDS TO NUCLEAR TRANSPLANTATION RESEARCH.—Research involving nuclear transplantation shall be conducted in accordance with the applicable provisions of part 46 of title 45, Code of Federal Regulations (as in effect on the date of enactment of the Human Cloning Prohibition Act of 2001).

''(c) CIVIL PENALTIES.—Whoever intentionally violates subsection (b) shall be subject to a civil penalty of not more than $250,000.

''(d) ENFORCEMENT.—The Secretary of Health and Human Services shall have the exclusive authority to enforce this section.''.

AGRICULTURAL, CONSERVATION, AND RURAL ENHANCEMENT ACT OF 2001—Motion To Proceed

Mr. REID. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of Calendar No. 237, S. 1731, the farm bill.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. I object.

The PRESIDING OFFICER. Objection is heard.

CLOTURE MOTION

Mr. REID. Mr. President, I move to proceed to Calendar No. 237, S. 1731, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to Calendar No. 237, S. 1731, the farm bill:

Tom Harkin, Tim Johnson, Bill Nelson, Harry Reid, Byron Dorgan, Fritz Hollings, Richard J. Durbin, Paul Wellstone, Kent Conrad, Tom Daschle, Debbie Stabenow, Tom Carper, Barbara Mikulski, Evan Bayh, Ron Wyden, Ben Nelson, Jean Carnahan, Patty Murray.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Nos. 593 through 605; the nominations on the Secretary's Desk; that the nominations be confirmed, the motion to reconsider be laid upon the table, that any statements be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

DEPARTMENT OF JUSTICE

Edward Hachiro Kubo, Jr., of Hawaii, to be United States Attorney for the District of Hawaii for the term of four years.

Sheldon J. Sperling, of Oklahoma, to be United States Attorney for the Eastern District of Oklahoma for the term of four years.

David R. Dugas, of Louisiana, to be United States Attorney for the Middle District of Louisiana for the term of four years.

David E. O'Meilia, of Oklahoma, to be United States Attorney for the Northern District of Oklahoma for the term of four years.

James A. McDevitt, of Washington, to be United States Attorney for the Eastern District of Washington, for the term of four years.

Johnny Keane Sutton, of Texas, to be United States Attorney for the Western District of Texas, for the term of four years.

Richard S. Thompson, of Georgia, to be United States Attorney for the Southern District of Georgia, for the term of four years.

Thomas L. Sansonetti, of Wyoming, to be an Assistant Attorney General.

DEPARTMENT OF COMMERCE

James Edward Rogan, of California, to be Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

Arden Bement, Jr., of Indiana, to be Director of the National Institute of Standards and Technology.

Conrad Lautenbacher, Jr., of Virginia, to be Under Secretary of Commerce for Oceans and Atmosphere.

DEPARTMENT OF TRANSPORTATION

William Schubert, of Texas, to be Administrator of the Maritime Administration.

FEDERAL EMERGENCY MANAGEMENT AGENCY

R. David Paulison, of Florida, to be Administrator of the United States Fire Administration, Federal Emergency Management Agency.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

COAST GUARD

PN1171 Coast Guard nominations (119) beginning Anita K. Abbott, and ending Steven G. Wood, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 30, 2001.

PN1172 Coast Guard nominations (203) beginning Albert R. Agnich, and ending Jose M. Zuniga, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 30, 2001.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Mr. President, as if in executive session, I ask unanimous consent that when the Senate considers the nomination of John Walters to be Director of National Drug Control Policy, it be considered under the following time limitation: 30 minutes for Senator LEAHY; 30 minutes for Senator HATCH; 10 minutes for Senator KENNEDY; and 10 minutes for Senator LOTT, or his designee; that when the debate time has been used or yielded, the Senate vote on the confirmation of the nomination, the motion to reconsider be laid on the table, the President be immediately notified of the Senate's action, and the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following calendar items en bloc: Calendar No. 231, H.R. 1766; Calendar No. 232, H.R. 2261; and Calendar No. 233, H.R. 2454.

The PRESIDING OFFICER. The clerk will read the bills by title.

The legislative clerk read as follows:

A bill (H.R. 1766) to designate the facility of the United States Postal Service located at 4270 John Marr Drive in Annandale, VA, as the ''Stan Parris Post Office Building.''

A bill (H.R. 2261) to designate the facility of the United States Postal Service located at 2853 Candler Road in Decatur, GA as the ''Earl T. Shinhoster Post Office.''

A bill (H.R. 2454) to redesignate the facility of the United States Postal Service located at 5472 Crenshaw Boulevard in Los Angeles, CA as the ''Congressman Julian C. Dixon Post Office.''

There being no objection, the Senate proceeded to consider the bills.

Mr. REID. Mr. President, I ask unanimous consent that the bills be read three times and passed, the motions to reconsider be laid upon the table en bloc, the consideration of these items appear separately in the RECORD, and that any statements be printed in the RECORD, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bills (H.R. 1766, H.R. 2261, and H.R. 2454) were read the third time and passed.

MEASURES INDEFINITELY POSTPONED—S. 1184 and S. 1381

Mr. REID. Mr. President, I ask unanimous consent that Calendar Nos. 229 and 230 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—CONFERENCE REPORT TO ACCOMPANY H.R. 2299

Mr. REID. Mr. President, I ask unanimous consent that the majority leader, following consultation with the Republican leader, may turn to the conference report to accompany H.R. 2299, the Transportation Appropriations Act, and that it be considered under the following limitations: there be a time limitation of 95 minutes for debate with the time controlled as follows: 30 minutes equally divided between the chair and ranking member of the subcommittee; 20 minutes equally divided between the chairman and ranking member of the full committee; and 15 minutes each under the control of Senators DORGAN, MCCAIN, and GRAMM of Texas; that upon the use or yielding back of time, with no further intervening action or debate, the Senate proceed to vote on adoption of the conference report.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

EXPRESSING THE SENSE OF CONGRESS REGARDING THE CRASH OF AMERICAN AIRLINES FLIGHT 587

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 272, which is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 272) expressing the sense of Congress regarding the crash of American Airlines Flight 587.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 272) was agreed to.

The preamble was agreed to.

EXPRESSING THE SENSE OF THE SENATE IN AWARDING THE PRESIDENTIAL MEDAL OF FREEDOM

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 217, S. Res. 23.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 23) expressing the sense of the Senate that the President should award the Presidential Medal of Freedom posthumously to Dr. Benjamin Elijah Mays in honor of his distinguished career as an educator, civil and human rights leader, and public theologian.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 23) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 23

Whereas Dr. Benjamin Elijah Mays, throughout his distinguished career of more than half a century as an educator, civil and human rights leader, and public theologian, has inspired people of all races throughout the world by his persistent commitment to excellence;

Whereas Benjamin Mays persevered, despite the frustrations inherent in segregation, to begin an illustrious career in education;

Whereas as dean of the School of Religion of Howard University and later as President of Morehouse College in Atlanta, Georgia, for 27 years, Benjamin Mays overcame seemingly insurmountable obstacles to offer quality education to all Americans, especially African Americans;

Whereas at the commencement of World War II, when most colleges suffered from a lack of available students and the demise of Morehouse College appeared imminent, Benjamin Mays prevented the college from permanently closing its doors by vigorously recruiting potential students and thereby aiding in the development of future generations of African American leaders;

Whereas Benjamin Mays was instrumental in the elimination of segregated public facilities in Atlanta, Georgia, and promoted the cause of nonviolence through peaceful student protests during a time in this Nation that was often marred by racial violence;

Whereas Benjamin Mays received numerous accolades throughout his career, including 56 honorary degrees from universities across the United States and abroad and the naming of 7 schools and academic buildings and a street in his honor; and

Whereas the Presidential Medal of Freedom, the highest civilian honor in the Nation, was established in 1945 to appropriately recognize Americans who have made an especially meritorious contribution to the security or national interests of the United States, world peace, or cultural or other significant public or private endeavors: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should award the Presidential Medal of Freedom posthumously to Dr. Benjamin Elijah Mays in honor of his distinguished career as an educator, civil and human rights leader, and public theologian and his many contributions to the improvement of American society and the world.

ACTION VITIATED—H. CON. RES. 272

Mr. REID. Mr. President, I ask unanimous consent that the action previously taken by the Senate regarding H. Con. Res. 272 be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

PATRIOT DAY

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.J. Res. 71 and the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the joint resolution by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 71) amending title 36, United States Code, designating September 11 as Patriot Day.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. HATCH. Mr. President, I rise today to urge adoption of H.J. Res. 71, which designates September 11 as ''Patriot Day.'' This resolution also calls on all Americans to observe a moment of silence to remember all those who lost their lives in the terrorist attack of September 11, 2001. I am the Senate sponsor of this bill along with Senators SCHUMER and SPECTER.

The events of September 11 have forever changed the lives of all Americans. We have all experienced a renewed sense of community and a sense of patriotic vigor that are the best of America. So many lives were touched by the terrorist attack—not only the thousands of heroes who lost their lives but also those they left behind. I am certain that few Americans will remain untouched by the devastation of our citizens that we saw in downtown New York, in the Pennsylvania countryside, and at our Pentagon.

These terrorists killed innocent Americans from every part of the country. We were so saddened to learn that Mary Alice Wahlstrom and her daughter, Carolyn Beug, of Kaysville, Utah, were struck down by this senseless violence. Mary Alice's husband of 52 years, Norman, described Mary Alice as the ''happiest lady you'll meet.'' As one of the ''kids,'' she joined with her only daughter to help her twin 18-year old granddaughters settle in at art school on the East Coast. In this time of grief, we join Norman, her four sons, and 18 grandchildren in hoping that our love and faith will continue to sustain each of us during this tragedy.

The grief all Americans feel today is barely speakable. I, for one, cannot express in words the sorrow I feel for the thousands of families profoundly shattered by the acts of war perpetrated against us on September 11th. I commend my colleagues who have spoken so eloquently at such a great moment of national tragedy.

As many of my colleagues have noted, our grief is leavened by the countless stories of sacrifice and heroism. Heroes such as the policemen, firemen and emergency personnel who rushed to the buildings and entered them in a race against collapse, a race that they unfortunately lost. I hope that every American who sees a fireman or a policeman today thinks of the sacrifices that these every day individuals are prepared to make for the good of our society, for the good of ourselves, every day.

There is no calamity America will withstand that will not be met with and overwhelmed by the decency, courage and selflessness of Americans coming to the aid of their own. It will be years before we can collect all of these stories and it will be impossible to measure the courage and bravery of these countless everyday heroes. As John says in the Bible, ''Greater love hath no man than this; that a man lay down his life for his friends.''

I also commend my colleagues for their unanimous support for the Administration of President George W. Bush. Americans are not partisan when we are to face a common foe, nor are their representatives.

We will face this foe together, and together we will prevail.

We must never forget the attack on America and the mighty resolve of the American spirit that has never shown brighter than after September 11. This resolution before us today will ensure that we will never forget the events of September 11, 2001.

I commend my colleagues in the House for adopting this resolution and urge my Senate colleagues to adopt this important measure tonight. Elaine and I offer our prayers for the victims and their families, as well as the thousands of brave rescue workers, including Utah's Urban Search and Rescue team. The team consists of fire department personnel from Salt Lake City and County. Our prayers go to the member of our armed forces, the greatest defenders of freedom a nation has ever known. And our prayers go to President Bush and his Administration, who are dedicated to peace and must now respond to war.

May God Bless America.

Mr. REID. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H.J. Res. 71) was agreed to.

The preamble was agreed to.

MEASURES READ THE FIRST TIME—H.R. 3210 AND S. 1748

Mr. REID. Mr. President, I understand that H.R. 3210, which was just received from the House, is at the desk. I now ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3210) to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism.

Mr. REID. Mr. President, I ask for the second reading of this legislation and object to my own request on behalf of a number of my colleagues.

The PRESIDING OFFICER. Objection having been heard, the bill will be read a second time on the next legislative day.

Mr. REID. Mr. President, it is my understanding that S. 1748, introduced by Senator GRAMM of Texas earlier today, is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title.

The legislative clerk read as follows:

A bill (S. 1748) to promote the stabilization of the economy by encouraging financial institutions to continue to support economic development, including development in urban areas through the provision of affordable insurance coverage against acts of terrorism, and for other purposes.

Mr. REID. Mr. President, I ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will be read a second time on the next legislative day.

ORDERS FOR MONDAY, DECEMBER 3, 2001

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 1 p.m. on Monday, December 3; that immediately following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and there be a period for morning business until 4:45 p.m., with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided between the two leaders, or their designees; further, at 4:45 p.m., the Senate resume consideration of H.R. 10, with 30 minutes for debate only, equally divided between the two leaders, or their designees, prior to a 5:15 p.m. cloture vote on the Lott amendment to H.R. 10, with the time from 5:05 to 5:10 p.m. under the control of Senator LOTT, or his designee, and the time from 5:10 to 5:15 p.m. under the control of Senator DASCHLE, or his designee; further, that the mandatory quorum be waived.

Mr. President, before entering this order, I have spoken to Senator MURKOWSKI and explained to him the difficulty of presiders. He indicated that 1 o'clock would be satisfactory with him. We appreciate his cooperation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, as I indicated this morning, there were three cloture motions filed in relation to H.R. 10. Therefore, all second-degree amendments must be filed prior to 4:15 p.m. on Monday.

ADJOURNMENT UNTIL 1 P.M. MONDAY, DECEMBER 3, 2001

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 1:54 p.m., adjourned until Monday, December 3, 2001, at 1 p.m.

NOMINATIONS

Executive nominations received by the Senate November 30, 2001:

OVERSEAS PRIVATE INVESTMENT CORPORATION

DIANE M. RUEBLING, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2001, VICE MELVIN E. CLARK, JR., TERM EXPIRED.

C. WILLIAM SWANK, OF OHIO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2002, VICE ROBERT MAYS LYFORD.

DEPARTMENT OF JUSTICE

SCOTT A. ABDALLAH, OF SOUTH DAKOTA, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF SOUTH DAKOTA FOR THE TERM OF FOUR YEARS, VICE KAREN ELIZABETH SCHREIER, RESIGNED.

THOMAS P. COLANTUONO, OF NEW HAMPSHIRE, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF NEW HAMPSHIRE FOR THE TERM OF FOUR YEARS, VICE PAUL MICHAEL GAGNON, RESIGNED.

HARRY E. CUMMINS, III, OF ARKANSAS, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF ARKANSAS FOR THE TERM OF FOUR YEARS, VICE PAULA JEAN CASEY, RESIGNED.

MICHAEL TAYLOR SHELBY, OF TEXAS, TO BE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF TEXAS FOR THE TERM OF FOUR YEARS, VICE MERVYN M. MOSBACKER, JR., RESIGNED.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 30, 2001:

DEPARTMENT OF COMMERCE

ARDEN BEMENT, JR., OF INDIANA, TO BE DIRECTOR OF THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

CONRAD LAUTENBACHER, JR., OF VIRGINIA, TO BE UNDER SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE.

DEPARTMENT OF TRANSPORTATION

WILLIAM SCHUBERT, OF TEXAS, TO BE ADMINISTRATOR OF THE MARITIME ADMINISTRATION.

FEDERAL EMERGENCY MANAGEMENT AGENCY

R. DAVID PAULISON, OF FLORIDA, TO BE ADMINISTRATOR OF THE UNITED STATES FIRE ADMINISTRATION, FEDERAL EMERGENCY MANAGEMENT AGENCY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF JUSTICE

EDWARD HACHIRO KUBO, JR., OF HAWAII, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF HAWAII FOR THE TERM OF FOUR YEARS.

SHELDON J. SPERLING, OF OKLAHOMA, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF OKLAHOMA FOR THE TERM OF FOUR YEARS.

DAVID R. DUGAS, OF LOUISIANA, TO BE UNITED STATES ATTORNEY FOR THE MIDDLE DISTRICT OF LOUISIANA FOR THE TERM OF FOUR YEARS.

DAVID E. O'MEILIA, OF OKLAHOMA, TO BE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF OKLAHOMA FOR THE TERM OF FOUR YEARS.

JAMES A. MCDEVITT, OF WASHINGTON, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF WASHINGTON, FOR THE TERM OF FOUR YEARS.

JOHNNY KEANE SUTTON, OF TEXAS, TO BE UNITED STATES ATTORNEY FOR THE WESTERN DISTRICT OF TEXAS, FOR THE TERM OF FOUR YEARS.

RICHARD S. THOMPSON, OF GEORGIA, TO BE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF GEORGIA, FOR THE TERM OF FOUR YEARS.

THOMAS L. SANSONETTI, OF WYOMING, TO BE AN ASSISTANT ATTORNEY GENERAL.

DEPARTMENT OF COMMERCE

JAMES EDWARD ROGAN, OF CALIFORNIA, TO BE UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE.

COAST GUARD NOMINATIONS BEGINNING ANITA K ABBOTT AND ENDING STEVEN G WOOD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 30, 2001.

COAST GUARD NOMINATIONS BEGINNING ALBERT R AGNICH AND ENDING JOSE M ZUNIGA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 30, 2001.